

BOARD OF SUPERVISORS

MINUTES

February 23, 2005

Supervisors in Attendance:

Mr. Edward B. Barber, Chairman
Mr. R. M. "Dickie" King, Jr.,
Vice Chairman
Mrs. Renny Bush Humphrey
Mr. Kelly E. Miller
Mr. Arthur S. Warren

Mr. Lane B. Ramsey
County Administrator

School Board Members in Attendance:

Ms. Dianne E. Pettitt, Chairman
Ms. Elizabeth B. Davis
Dr. James R. Schroeder

Staff in Attendance:

Lt. Barry Arnold,
Sheriff's Office
Colonel Carl R. Baker,
Police Department
Mr. Jim Banks, Asst.
Dir., Transportation
Dr. Billy Cannaday, Jr.,
Supt., School Board
Ms. Marilyn Cole, Asst.
County Administrator
Ms. Mary Ann Curtin, Dir.,
Intergovtl. Relations
Ms. Rebecca Dickson, Dir.,
Budget and Management
Ms. Lisa Elko, CMC
Clerk
Ms. Kelly Fried, Quality
Improvement Mgr., Mental
Health/Mental Retard./
Substance Abuse Services
Mr. Jeff Franklin, Asst.
Dir., Utilities
Mr. Michael Golden, Dir.,
Parks and Recreation
Mr. Bradford S. Hammer,
Deputy Co. Admin.,
Human Services
Mr. John W. Harmon,
Right-of-Way Manager
Mr. Russell Harris, Mgr.
of Community Development
Services
Mr. Joseph A. Horbal,
Commissioner of Revenue
Mr. Donald Kappel, Dir.,
Public Affairs
Acting Chief Paul Mauger,
Fire and EMS Dept.
Mr. Richard M. McElfish,
Dir., Env. Engineering
Mr. Steven L. Micas,
County Attorney
Mr. Francis Pitaro, Dir.,
General Services
Mr. James J. L. Stegmaier,
Deputy Co. Admin.,
Management Services
Mr. M. D. Stith, Jr.,
Deputy Co. Admin.,
Community Development
Mr. Thomas Taylor, Dir.,
Block Grant Office

Mr. Scott Zarembo, Asst.
Dir., Human Resource Mgt.

Mr. Barber called the regularly scheduled meeting to order at 3:38 p.m.

1. APPROVAL OF MINUTES FOR FEBRUARY 9, 2005

On motion of Mr. King, seconded by Mr. Miller, the Board approved the minutes of February 9, 2005, as submitted.

Ayes: Barber, King, Humphrey, Miller and Warren.

Nays: None.

2. COUNTY ADMINISTRATOR'S COMMENTS

2.A. VIRGINIA HISPANIC CHAMBER OF COMMERCE PRESENTATION

Mr. Michel Zajur, CEO/President of the Virginia Hispanic Chamber of Commerce, briefed the Board regarding activities of the organization. He stated the first bi-lingual business information center in the country has opened in the county, which administers a loan program and provides technical assistance to the Hispanic community. He further stated the organization sponsors festivals and leadership events to bring communities together. He stated the Chamber works closely with the Mexican Embassy and Chesterfield's sister city in Mexico and hopes to bring Latin American businesses to the area. He further stated initiatives of the organization include educational programs; a mentor program; and job fairs. He thanked the Board for the opportunity to share information about activities of the Hispanic Chamber of Commerce.

Mr. Miller stated the Dale District has the largest Hispanic population in the county and expressed concerns that many Hispanics are illegal residents, some of whom are involved in illegal activities.

Mr. Zajur stated the Chamber works closely with law enforcement agencies and also assists Hispanics in becoming legal residents.

Mrs. Humphrey stated little league sports might be a means of connecting Hispanic families with the community and suggested that Mr. Zajur meet with Parks and Recreation staff to pursue this opportunity.

Mr. King thanked Mr. Zajur for his commitment to the Hispanic community.

Mr. Barber applauded Mr. Zajur's efforts and offered the Board's support to the Hispanic Chamber of Commerce.

2.B. LEGISLATIVE UPDATE

Ms. Curtin provided an update on General Assembly activities. She stated the remaining county bills have all come out of committee and are favorably working their way through the process. She further stated the cash proffer bills have been

amended through a lot of hard work and are no longer troublesome to the county. She stated the session is scheduled to end in a couple of days and the state budget should be ready on February 25th.

Discussion ensued relative to amendments to the cash proffer bills.

Ms. Curtin stated House Bill 2888 has been amended to allow the county seven years in which to spend cash proffers, beginning on the date of full payment.

Mr. Ramsey noted the county's cash proffer spending pattern has been less than the seven-year time period required by the new legislation, so staff does not anticipate a problem.

Mr. Barber expressed concerns that the county's legislative delegation supported the original cash proffer bills that would have negatively impacted Chesterfield County.

In response to Mr. Miller's questions, Ms. Curtin stated an affordable housing bill was introduced that was specific to Arlington County. She further stated all of the group home bills are going through the process with minor technical amendments.

Mr. Ramsey commended Ms. Curtin, Mr. Charlie Davis and other county staff on their excellent representation of Chesterfield County at the General Assembly.

3. BOARD COMMITTEE REPORTS

There were no Board committee reports at this time.

4. REQUESTS TO POSTPONE ACTION, ADDITIONS, OR CHANGES IN THE ORDER OF PRESENTATION

On motion of Mr. King, seconded by Mr. Warren, the Board moved Item 8.B., Acceptance of a Bid to Purchase Chesterfield County General Obligation Bonds, Series 2005A for Various Capital Improvement Projects, and General Obligation Refunding Bonds, Series 2005B for Advance Refunding of Series 1998A and Series 1999A General Obligation Bonds, to be heard prior to Item 6., Work Session; replaced Item 8.D.4.b., Transfer of District Improvement Funds from the Dale District Improvement Fund to the Chesterfield County School Board to Upgrade the Sound System in the Cafeteria at Falling Creek Elementary School; replaced Item 8.D.5.a., Request to Quitclaim a Portion of a Sixteen-Foot Drainage Easement (Private) Across the Property of Chesapeake Foods, Incorporated; added Item 8.D.12., Approval of Naming the Midlothian Branch Library Meeting Room in Honor of Mr. Walter G. Muller; replaced Item 10.B., Report on Status of General Fund Balance, Reserve for Future Capital Projects, District Improvement Funds and Lease Purchases; added Item 10.C., Report of the Planning Commission on Growth Management Retreat Items; and adopted the Agenda, as amended.

Ayes: Barber, King, Humphrey, Miller and Warren.

Nays: None.

5. RESOLUTIONS AND SPECIAL RECOGNITIONS

There were no resolutions or special recognitions at this time.

8.B. ACCEPTANCE OF A BID TO PURCHASE CHESTERFIELD COUNTY GENERAL OBLIGATION BONDS, SERIES 2005A FOR VARIOUS CAPITAL IMPROVEMENT PROJECTS, AND GENERAL OBLIGATION REFUNDING BONDS, SERIES 2005B FOR ADVANCE REFUNDING OF SERIES 1998A AND SERIES 1999A GENERAL OBLIGATION BONDS

Ms. Dickson stated bids received today were for the purchase of General Obligation Bonds, Series 2005A for capital improvement projects approved in the November 2004 bond referendum and General Obligation Refunding Bonds, Series 2005B, for advance refunding of Series 1998A and 1999A General Obligation Bonds. She further stated the refinancing will save the county approximately \$860,000 over the next 13 years. She stated the lowest responsible bidder was CitiGroup Global Markets, Incorporated at a true interest cost of 3.84 percent.

Mr. Ramsey stated the \$860,000 savings represents evidence of the county's AAA bond rating and speaks well for the county.

On motion of Mr. Miller, seconded by Mr. Warren, the Board approved the acceptance of a proposal from CitiGroup Global Markets, Incorporated to purchase \$17,635,000 principal amount of General Obligation Bonds, Series 2005A, and up to \$30,000,000 principal amount of General Obligation Public Improvement Refunding Bonds, Series 2005B, for advance refunding of Series 1998A and Series 1999A General Obligation Bonds, with a true interest cost of 3.84 percent.

Ayes: Barber, King, Humphrey, Miller and Warren.

Nays: None.

6. WORK SESSION

o COUNTY ADMINISTRATOR'S FY2006 PROPOSED BUDGET INCLUDING PRESENTATIONS FROM THE POLICE DEPARTMENT AND SCHOOL BOARD

Ms. Dickson stated this is the second work session on the FY2006 proposed budget. She introduced Ms. Pettitt to begin the work session.

Ms. Pettitt expressed appreciation, on behalf of the School Board, staff and students of Chesterfield County, for the Board's generous support. She stated results of the Bond Referendum and the Citizen Satisfaction Survey indicate that the community as a whole is supportive of public education. She introduced Dr. Cannaday to provide an overview of the School Board's approved FY2006 budget.

Dr. Cannaday reviewed student successes, including continued progress on Standards of Learning scores and the "No Child Left Behind" initiative; sustained high graduation rates as graduation standards increase; and increased academic rigor and choices. He reviewed employee successes, including 25 National Board Certified teachers in three years; multiple

regional, state and national awards; and increased participation in professional growth opportunities. He also reviewed school successes, including 100 percent accreditation of comprehensive schools; 71 percent of schools making "adequate yearly progress"; and a 100 percent rating of good/thriving in the School Climate survey. He reviewed the current status of the FY2006 budget, which anticipates an unprecedented increase in state revenue for the second year of the biennium. He stated expenditure demands exceed revenue and spending decisions must be sensitive to future anticipated revenue and sustainable. He further stated increased revenue for FY2006 totals \$28.9 million.

In response to Mr. Miller's questions, Dr. Cannaday stated student enrollment is projected to increase approximately two percent next year and FY2006 revenue is anticipated to increase 6.8 percent. He reviewed required expenditure increases, including \$1.2 million to address an increase in the Virginia Retirement System (VRS) rate; \$2.1 million to address student growth; \$1.6 million to address services for special education and ESL students; \$3.1 million for debt service; \$800,000 for county services; and \$500,000 for additional bus drivers. He stated FY2006 expenditure choices include \$11.4 million for salary increases.

There was brief discussion relative to state funding of salary increases and reserve of fund balance for contingencies.

Dr. Cannaday continued to review FY2006 expenditure choices that support the "First Choice" Employer goal, including \$5.7 million for health insurance; \$200,000 to supplement national certification or doctorate in field; \$500,000 for tuition reimbursement; and \$200,000 to support the leadership initiative. He then reviewed FY2006 expenditure choices to prepare each student for success, including \$200,000 for regional programs; \$300,000 for secondary guidance support; and \$200,000 for technology positions. He reviewed FY2006 expenditure choices to provide a safe and effective learning environment, including \$1.3 million for secondary administrative assistants.

Discussion ensued relative to initiatives to address safety of the learning environment.

Dr. Cannaday continued to review FY2006 expenditure choices to provide a safe and effective learning environment, including \$1.6 million for elementary front office staffing; \$700,000 for additional school buses and drivers; and a \$2.7 million reduction as a result of the elimination of replacement and one-time costs. He provided details of enhanced community partnerships. He stated the School Board's adopted FY2006 Operating Budget totals \$454,699,100. He reviewed Chesterfield County Public Schools Vision 2012 and stated the School Board's adopted budget is necessary to sustain mission critical achievements and prepare for vision attainment.

Mrs. Humphrey expressed a desire for the Grandparents Reading Program at Ettrick Elementary to be funded in the School Board's budget. She expressed concerns relative to the projected number of additional students Chesterfield County will receive as a result of the impending Fort Lee expansion.

She stated she was informed at a Crater Planning Commission meeting that this information had been sent to the localities.

Dr. Cannaday stated the information has not yet been received, but it would be very helpful to receive it as soon as possible.

Mrs. Humphrey stated she will make sure the information is provided to Dr. Cannaday as soon as possible.

Mr. King offered his full support of the School Board's decision regarding location of the new middle school, indicating he is very appreciative of the School Board staying the course and doing what is right for the children of Chesterfield.

Mr. Barber also expressed confidence in the School Board's decision. He recognized School Board members who were present at the meeting. He thanked Dr. Cannaday for the excellent presentation.

Mrs. Elko called forward Colonel Baker to provide an overview of the Police Department's proposed FY2006 budget.

Colonel Baker reviewed challenges and trends that are impacting the Police Department. He then reviewed financial activity and stated the proposed amended FY2006 budget totals \$39,688,200, and includes funding for six new police officers; six additional officers under the COPS grant; four police aides for the new police evidence storage facility; and 11 positions to open the Hull Street Station (ten sworn officers and one non-sworn position). He stated, although calls and assignments continue to increase, the crime rate has decreased based upon population. He reviewed data regarding Incident Based Reporting (IBR) Group A incidents and clearance rates and compared Chesterfield's clearance rates with national clearance rates. He expressed concerns relative to average response times for Priority 1, 2 and 3 calls. He reviewed cost per capita for law enforcement services and stated volunteers provided 27,849 hours of service during 2004. He provided details of establishment of an annual staffing plan beginning with FY2006, which includes the addition of 15 sworn officers per year. He stated Chesterfield has 1.61 sworn officers per 1,000 citizens, indicating that the national average is 2.7 officers per 1,000 citizens. He noted if 15 sworn officers are added annually, the department will be at the same level in 2007 as it was in 2001 in terms of sworn officers per citizens. He stated the Hull Street Station is scheduled to open within 12 to 15 months, and the FY2006 budget includes ten sworn officers and one non-sworn position to staff this station. He expressed concerns that, because of increases in population and demands for service, the beat structure must be updated, indicating that it was last changed approximately 13 years ago. He stated the department is presently unable to fill eight beats in both the north and south districts in any 24-hour day. He further stated an increase in minimum staffing is necessary for officer safety, indicating that this will not be possible without additional personnel. He reviewed the percent of increase in calls for service versus population growth.

In response to Mr. Miller's question, Colonel Baker stated illegal Hispanic immigrants have dramatically impacted the Police Department's workload, indicating it becomes a state and local problem once the immigrants cross over the border. He further stated illegal immigrants are deported only for felony convictions. He stated the department offers a program to instruct Hispanics on driving in the United States after being convicted of a traffic violation. He further stated the department notifies the Consulate when illegal immigrants are discovered, but the calls go unanswered. He expressed concerns that Spanish speaking officers must be pulled to answer calls involving the Hispanic and Asian community. He then reviewed residential growth from 2004 through 2010 and total calls for service by beat. He expressed concerns relative to the department's inability to meet response time goals and provided details of the department's involvement in Metropolitan-wide task forces. He stated, based on an annual analysis, the staffing plan will continue in future years requesting an additional 15 officers per year, at a minimum, along with additional support personnel. He reviewed additional funding requests, including \$573,600 for operating expenses and capital equipment for grant positions; \$54,000 for a Crime Prevention Specialist; \$77,400 for two Records Specialists; and \$80,900 for a Forensic Supervisor. He then provided details of Animal Control's FY2006 budget. He stated the proposed amended FY2006 Animal Control budget totals \$1,114,300. He reviewed calls for service, animals impounded and animals adopted from 2000 through 2004. He stated additional funding requests include \$84,600 for an Animal Control Officer; \$30,100 for a Kennelmaster; and \$32,000 for a Senior Office Assistant.

Discussion ensued relative to use of the volunteer auxiliary police force as well as gang and drug activity in the county.

Mr. King thanked Colonel Baker for his public acknowledgement that gangs exist in the county and commended him on the use of volunteers.

Mr. Ramsey stated the department's clearance rate is phenomenal compared to the national clearance rate. He further stated the addition of 15 officers per year is in line with what has been done in the past through the COPS grant and that the FY2006 proposed budget being brought to the Board on March 9th meets this staffing plan given that 22 additional sworn positions are included.

Both Mr. Miller and Mr. Warren commended Colonel Baker and Police Department staff for their efforts in protecting county citizens.

There was brief discussion relative to federal and state funding for homeland security.

Mr. Barber stated bilateral cooperation and support was the emphasis of a meeting he had with Mayor Wilder this week and he hopes the two localities can better understand what we do together and provide support to each other. He thanked Colonel Baker for the informative presentation.

7. DEFERRED ITEMS

There were no deferred items at this time.

8. NEW BUSINESS

8.A. AUTHORIZATION TO ADVERTISE TAX RATES FOR FY2006 BIENNIAL FINANCIAL PLAN AND SET PUBLIC HEARINGS

Ms. Dickson stated the Board is being requested to advertise tax rates for the calendar year 2005, the amended FY2006 Biennial Financial Plan, proposed FY2006-FY2011 Capital Improvement Program, Proposed FY2006 Community Development Block Grant Program and other ordinance changes necessary to achieve the revenues included in the Biennial Financial Plan.

In response to Mr. Miller's question, Ms. Dickson stated staff is putting together a proposal for the Board's consideration related to enhancing the tax relief for the elderly program, but clarified that the County Administrator's proposed budget will not include funding for this when it is presented on March 9th. She further stated the \$1 increase in the landfill gate fee will provide approximately \$300,000 in revenue, indicating this was a planned increase and the budget does assume the increase.

On motion of Mr. King, seconded by Mr. Miller, the Board authorized the advertisement of tax rates, the amended FY2006 Biennial Financial Plan, the proposed FY2006-FY2011 Capital Improvement Program, the FY2005 Community Development Block Grant Program, and other ordinance changes.

And, further, the Board set the date of March 23, 2005 beginning at 7:00 p.m. for public hearings to consider these items.

Ayes: Barber, King, Humphrey, Miller and Warren.

Nays: None.

8.C. APPOINTMENTS

On motion of Mr. Warren, seconded by Mr. Miller, the Board suspended its rules at this time to allow for simultaneous nomination/appointment/reappointment of members to serve on the Chesterfield Community Services Board and the Preservation Committee.

Ayes: Barber, King, Humphrey, Miller and Warren.

Nays: None.

8.C.1. CHESTERFIELD COMMUNITY SERVICES BOARD

On motion of Mr. Miller, seconded by Mr. Warren, the Board simultaneously nominated/appointed Mr. Lorenzo Ross, representing the Dale District, to serve on the Chesterfield Community Services Board, whose term is effective March 1, 2005 and expires December 31, 2007.

Ayes: Barber, King, Humphrey, Miller and Warren.

Nays: None.

8.C.2. PRESERVATION COMMITTEE

On motion of Mrs. Humphrey, seconded by Mr. Warren, the Board simultaneously nominated/appointed/reappointed the following at-large members to serve on the Preservation Committee, whose terms are effective March 9, 2005 and expire March 12, 2008: Ms. Mary Ellen Howe, Mr. James V. Daniels, Jr., Mr. J. Carl Morris, Mr. G. M. "Skip" Wallace, Mr. Bryan Walker, Mr. John V. Cogbill, and Mr. George Emerson.

Ayes: Barber, King, Humphrey, Miller and Warren.

Nays: None.

8.D. CONSENT ITEMS

8.D.1. ADOPTION OF RESOLUTIONS

8.D.1.a. RECOGNIZING MARCH 2005, AS "PURCHASING MONTH" IN CHESTERFIELD COUNTY

On motion of Mr. Warren, seconded by Mr. Miller, the Board adopted the following resolution:

WHEREAS, the purchasing and materials management profession has a significant role in the quality, efficiency and profitability of business and government throughout the United States; and

WHEREAS, the purchasing and materials management profession works for private and public, and profit and nonprofit organizations; and

WHEREAS, in addition to the purchase of goods and services, the purchasing and materials management profession engages in or has direct responsibility for functions such as executing, implementing and administering contracts; developing forecast and procurement strategies; supervising and/or monitoring the flow and storage of materials; and developing working relations with suppliers and with other departments within the organization; and

WHEREAS, the purchasing and materials management profession has tremendous influence on the economic conditions in the United States, with an accumulative purchasing power running into the billions of dollars; and

WHEREAS, purchasing or procurement operations range from departments of one person to several thousand; and

WHEREAS, governmental purchasing and other associations around the world are sponsoring activities and special events to further educate and inform the general public on the role of purchasing within business, industry and government.

NOW, THEREFORE BE IT RESOLVED, that the Chesterfield County Board of Supervisors hereby recognizes the month of March 2005, as "Purchasing Month" in Chesterfield County and encourages all citizens to join in commemorating this observance.

Ayes: Barber, King, Humphrey, Miller and Warren.

Nays: None.

**8.D.1.b. RECOGNIZING LIEUTENANT CHARLES P. TAYLOR, JR.,
CHESTERFIELD FIRE AND EMERGENCY MEDICAL SERVICES
DEPARTMENT, UPON HIS RETIREMENT**

On motion of Mr. Warren, seconded by Mr. Miller, the Board adopted the following resolution:

WHEREAS, Lieutenant Charles Perry Taylor retired from the Fire and Emergency Medical Services Department, Chesterfield County, on January 1, 2005; and

WHEREAS, Lieutenant Taylor attended Recruit School #3 in 1973, and has faithfully served the county for over thirty-one years in various assignments including as a Firefighter at the Manchester Fire Station #2 and Ettrick Fire Station #12; as a Sergeant at the Ettrick Fire Station #12, the Manchester Fire Station #2, the Chester Fire Station #1, the Clover Hill Fire Station #7, the Wagstaff Fire Station #10, and the Bon Air Fire Station #4; and as a Lieutenant at the Bon Air Fire Station #4; and

WHEREAS, in 1976, Lieutenant Taylor submitted a recommendation to form a scuba rescue team and became a charter member of the team; and

WHEREAS, Lieutenant Taylor received a unit citation award in 1991 for the rescue of two citizens from their balcony on East Coal Hopper Lane; and

WHEREAS, in 1995, Lieutenant Taylor received a unit citation award for participation in a rescue of a victim from a smoke stack at the Dutch Gap power station; and

WHEREAS, Lieutenant Taylor came to the rescue of a fellow firefighter during a fire at Darryl's Restaurant by providing lifesaving buddy breathing while assisting him safely out of the building; and

WHEREAS, Lieutenant Taylor has mentored and trained many firefighters, of whom more than six have become respected Fire Officers in the department; and

WHEREAS, Lieutenant Taylor has been ready to respond to every need of the department within his capability, including his dedication to public service, his willingness to work long hours without complaint, and his creativity in performing a variety of jobs have earned him the respect and admiration of the entire Fire and Emergency Medical Services Department.

NOW, THEREFORE BE IT RESOLVED, that the Chesterfield County Board of Supervisors recognizes the contributions of Lieutenant Charles Perry Taylor, expresses the appreciation of all residents for his service to the county, and extends appreciation for his dedicated service and congratulations upon his retirement.

Ayes: Barber, King, Humphrey, Miller and Warren.

Nays: None.

8.D.2. REQUEST FOR A MUSIC/ENTERTAINMENT FESTIVAL PERMIT FOR THE CHESTERFIELD BERRY FARM EVENT BETWEEN MAY 7 AND MAY 29, 2005

On motion of Mr. Warren, seconded by Mr. Miller, the Board approved a request for a music/entertainment festival permit for the Chesterfield Berry Farm Strawberry Festival between May 7 and May 29, 2005.

Ayes: Barber, King, Humphrey, Miller and Warren.

Nays: None.

8.D.3. REQUEST FOR A PERMIT TO STAGE A FIREWORKS DISPLAY AT THE SUNDAY PARK PENINSULA OF BRANDERMILL ON JULY 4, 2005

On motion of Mr. Warren, seconded by Mr. Miller, the Board approved a request for a permit to stage a fireworks display at the Sunday Park Peninsula of Brandermill on July 4, 2005 at dusk, with a rain date of July 5, 2005.

Ayes: Barber, King, Humphrey, Miller and Warren.

Nays: None.

8.D.4. TRANSFER OF DISTRICT IMPROVEMENT FUNDS

8.D.4.a. FROM THE BERMUDA AND DALE DISTRICT IMPROVEMENT FUNDS TO THE PARKS AND RECREATION DEPARTMENT

8.D.4.a.1. TO DEFRAY THE COSTS ASSOCIATED WITH THE ANNUAL TOUR OF THE FALLING CREEK IRONWORKS

On motion of Mr. Warren, seconded by Mr. Miller, the Board transferred \$2,500 each (\$5,000 total) from the Bermuda and Dale District Improvement Funds to the Parks and Recreation Department to defray the costs associated with the annual tour of the Falling Creek Ironworks.

Ayes: Barber, King, Humphrey, Miller and Warren.

Nays: None.

8.D.4.a.2. TO PURCHASE EQUIPMENT FOR DEPARTMENT-RUN BASEBALL AND SOFTBALL PROGRAMS IN EACH OF THOSE DISTRICTS

On motion of Mr. Warren, seconded by Mr. Miller, the Board transferred \$3,000 each (\$6,000 total) from the Dale and Bermuda District Improvement Funds to the Parks and Recreation Department to purchase equipment for department-run baseball and softball programs in each of those districts.

Ayes: Barber, King, Humphrey, Miller and Warren.

Nays: None.

8.D.4.b. FROM THE DALE DISTRICT IMPROVEMENT FUND TO THE CHESTERFIELD COUNTY SCHOOL BOARD TO UPGRADE THE SOUND SYSTEM IN THE CAFETERIA AT FALLING CREEK ELEMENTARY SCHOOL

On motion of Mr. Warren, seconded by Mr. Miller, the Board transferred \$4,500 from the Dale District Improvement Fund to

the Chesterfield County School Board to upgrade the sound system in the cafeteria at Falling Creek Elementary School.

Ayes: Barber, King, Humphrey, Miller and Warren.

Nays: None.

8.D.5. REQUESTS TO QUITCLAIM

8.D.5.a. A PORTION OF A SIXTEEN-FOOT DRAINAGE EASEMENT (PRIVATE) ACROSS THE PROPERTY OF CHESAPEAKE FOODS, INCORPORATED

On motion of Mr. Warren, seconded by Mr. Miller, the Board authorized the Chairman of the Board of Supervisors and the County Administrator to execute a quitclaim deed to vacate a portion of a 16-foot drainage easement (private) across the property of Chesapeake Foods, Incorporated. (It is noted a copy of the plat is filed with the papers of this Board.)

Ayes: Barber, King, Humphrey, Miller and Warren.

Nays: None.

8.D.5.b. A PORTION OF A SIXTEEN-FOOT DRAINAGE EASEMENT (PRIVATE) ACROSS THE PROPERTY OF INLAND SOUTHEAST CHESTERFIELD, L.L.C.

On motion of Mr. Warren, seconded by Mr. Miller, the Board authorized the Chairman of the Board of Supervisors and the County Administrator to execute a quitclaim deed to vacate a portion of a 16-foot drainage easement (private) across the property of Inland Southeast Chesterfield, L.L.C. (It is noted a copy of the plat is filed with the papers of this Board.)

Ayes: Barber, King, Humphrey, Miller and Warren.

Nays: None.

8.D.6. ACCEPTANCE OF PARCELS OF LAND

8.D.6.a. ALONG THE WEST RIGHT OF WAY LINE OF TURNER ROAD FROM WELCO, LLC

On motion of Mr. Warren, seconded by Mr. Miller, the Board accepted the conveyance of two parcels of land containing a total of 0.046 acres along the west right of way line of Turner Road (State Route 650) from Welco, LLC, and authorized the County Administrator to execute the deed. (It is noted copies of the plats are filed with the papers of this Board.)

Ayes: Barber, King, Humphrey, Miller and Warren.

Nays: None.

8.D.6.b. ON HERELD GREEN DRIVE FROM REEDY MILL, L.C.

On motion of Mr. Warren, seconded by Mr. Miller, the Board accepted the conveyance of a parcel of land containing 1.330 acres on Hereld Green Drive from Reedy Mill, L.C., and authorized the County Administrator to execute the deed. (It

is noted a copy of the plat is filed with the papers of this Board.)

Ayes: Barber, King, Humphrey, Miller and Warren.

Nays: None.

8.D.7. CONVEYANCE OF AN EASEMENT TO VIRGINIA ELECTRIC AND POWER COMPANY FOR UNDERGROUND CABLE TO SERVE THE NEW COSBY ROAD HIGH SCHOOL

On motion of Mr. Warren, seconded by Mr. Miller, the Board authorized the Chairman of the Board of Supervisors and the County Administrator to execute an easement agreement with Virginia Electric and Power Company for underground cable to serve the new Cosby Road High School. (It is noted a copy of the plat is filed with the papers of this Board.)

Ayes: Barber, King, Humphrey, Miller and Warren.

Nays: None.

8.D.8. REQUEST FOR PERMISSION FROM G AND E CONSTRUCTION COMPANY, INCORPORATED TO INSTALL A PRIVATE WATER SERVICE WITHIN A FIFTY-FOOT COUNTY RIGHT OF WAY TO SERVE PROPERTY ON HAMPTON AVENUE

On motion of Mr. Warren, seconded by Mr. Miller, the Board approved a request from G and E Construction Company, Incorporated for permission to install a private water service within a 50-foot county right of way to serve property at 21305 Hampton Avenue, subject to the execution of a license agreement, and authorized the County Administrator to execute the water connection agreement. (It is noted a copy of the plat is filed with the papers of this Board.)

Ayes: Barber, King, Humphrey, Miller and Warren.

Nays: None.

8.D.9. AWARD OF ANNUAL REQUIREMENTS CONTRACT FOR PHARMACY SERVICES FOR THE SHERIFF'S OFFICE, JUVENILE DETENTION, YOUTH GROUP HOME AND WORKERS COMPENSATION TO MAO PHARMACY, INCORPORATED (WESTWOOD PHARMACY) AND UKROP'S SUPER MARKETS, INCORPORATED

On motion of Mr. Warren, seconded by Mr. Miller, the Board awarded the annual requirements contract for pharmacy services for the Sheriff's Office, Juvenile Detention, Youth Group Home and Workers Compensation to MAO Pharmacy, Incorporated (Westwood Pharmacy) and Ukrop's Super Markets, Incorporated.

Ayes: Barber, King, Humphrey, Miller and Warren.

Nays: None.

8.D.10. SET PUBLIC HEARING DATE TO CONSIDER AMENDMENTS TO THE COUNTY'S MASSAGE THERAPY ORDINANCE TO ALLOW MESSAGES TO BE PERFORMED FOR COMPENSATION BY MASSAGE THERAPY STUDENTS

On motion of Mr. Warren, seconded by Mr. Miller, the Board set the date of March 9, 2005 at 7:00 p.m. for a public

hearing for the Board to consider amendments to the massage therapy ordinance to allow massages to be conducted for compensation by massage students in a post-secondary school under the supervision of a certified massage therapist.

Ayes: Barber, King, Humphrey, Miller and Warren.

Nays: None.

8.D.11. APPROPRIATION OF STATE WIRELESS 911 SERVICES BOARD FUNDS TO ADDRESS EQUIPMENT NEEDS RELATED TO THE COUNTY'S AUTOMATED 911 SYSTEM

On motion of Mr. Warren, seconded by Mr. Miller, the Board appropriated \$89,500 in state wireless 911 funds received from the Virginia Wireless E911 Services Board to address equipment needs related to the county's automated 911 system.

Ayes: Barber, King, Humphrey, Miller and Warren.

Nays: None.

8.D.12. APPROVAL OF NAMING THE MIDLOTHIAN LIBRARY MEETING ROOM IN HONOR OF MR. WALTER G. MULLER

On motion of Mr. Warren, seconded by Mr. Miller, the Board adopted the following resolution:

WHEREAS, Mr. Walter G. Muller, a World War II veteran, was a member of the Midlothian Branch Friends of the Library for eighteen years; and

WHEREAS, Mr. Muller served on the executive board of the Friends of the Library, promoting cooperation among library volunteers and the wider Friends' organization in addition to encouraging new membership; and

WHEREAS, as president of the Midlothian Branch Friends of the Chesterfield County Public Library, Mr. Muller donated \$25,000 on behalf of the Friends, toward the cost of expanding the library building in 1992; and

WHEREAS, Mr. Muller was instrumental in developing and organizing the prototype for a highly successful Friends of the Library book sale program; and

WHEREAS, Mr. Muller was well loved by the Friends of the Library and staff of the Midlothian Library and served as a strong supporter of the library for many years.

NOW, THEREFORE BE IT RESOLVED, that the Chesterfield County Board of Supervisors recognizes Mr. Walter G. Muller by naming the Midlothian Library Meeting Room, the "Walter G. Muller Meeting Room."

AND, BE IT FURTHER RESOLVED, that a copy of this resolution be presented to Mr. Muller and that this resolution be permanently recorded among the papers of the Board of Supervisors of Chesterfield County, Virginia.

Ayes: Barber, King, Humphrey, Miller and Warren.

Nays: None.

9. HEARINGS OF CITIZENS ON UNSCHEDULED MATTERS OR CLAIMS

There were no hearings of citizens on unscheduled matters or claims at this time.

10. REPORTS

10.A. REPORT ON DEVELOPER WATER AND SEWER CONTRACTS

10.B. REPORT ON STATUS OF GENERAL FUND BALANCE, RESERVE FOR FUTURE CAPITAL PROJECTS, DISTRICT IMPROVEMENT FUNDS AND LEASE PURCHASES

10.C. REPORT OF THE PLANNING COMMISSION ON GROWTH MANAGEMENT RETREAT ITEMS

Mr. Miller expressed concerns relative to acceptance of the Planning Commission's Report on Growth Management Retreat Items, indicating that he does not necessarily agree with certain recommendations in the report.

Mr. Ramsey stated the intent of accepting the report is to acknowledge the actions that have been taken by the Planning Commission.

Mr. Micas stated acceptance of the report merely acknowledges receipt of the information and does not anticipate any action.

On motion of Mr. Miller, seconded by Mr. Barber, the Board accepted a Report on Developer Water and Sewer Contracts; a Report on the Status of General Fund Balance, Reserve for Future Capital Projects, District Improvement Funds and Lease Purchases; and a Report of the Planning Commission on Growth Management Retreat Items.

Ayes: Barber, King, Humphrey, Miller and Warren.

Nays: None.

11. DINNER

On motion of Mr. Miller, seconded by Mr. Warren, the Board recessed to the Administration Building, Room 502, for dinner with members of the Chesterfield School Board.

Ayes: Barber, King, Humphrey, Miller and Warren.

Nays: None.

Reconvening:

12. INVOCATION

Dr. Wilson Shannon, Pastor of First Baptist Church Centralia gave the invocation.

o MUSICAL SELECTIONS BY THE MASS CHOIR OF FIRST BAPTIST
CHURCH CENTRALIA

Mr. Stith introduced members of the Mass Choir from First Baptist Church Centralia.

The choir performed two musical selections.

13. PLEDGE OF ALLEGIANCE TO THE FLAG OF THE UNITED STATES
OF AMERICA

Mr. Stith led the Pledge of Allegiance to the flag of the United States of America.

14. RESOLUTIONS AND SPECIAL RECOGNITIONS

o RECOGNIZING THE MEADOWBROOK HIGH SCHOOL VARSITY FOOTBALL
TEAM FOR ITS OUTSTANDING ACCOMPLISHMENTS AND SPORTSMANSHIP

Mr. Hammer introduced Coach William Bowles and members of the Meadowbrook High School Varsity Football Team, who were present to receive the resolution.

On motion of the Board, the following resolution was adopted:

WHEREAS, participation in high school sports has long been an integral part of Chesterfield County's educational, physical, and emotional development for students; and

WHEREAS, Mr. William Bowles, coach of the Meadowbrook High School Boys Varsity Football Team completed his 21st year of coaching in Chesterfield County, and was named State Football Coach of the year; and

WHEREAS, under Mr. Bowles and his staff's guidance and direction, the 2004 Meadowbrook Monarchs finished the regular season 9-1; and

WHEREAS, the Meadowbrook Monarchs were the Central Region Champions; and

WHEREAS, the Meadowbrook Monarchs were the AAA Division 5 State Champions; and

WHEREAS, the senior members included Teorn Whitlock, Roy Haliburton, Christopher Walker, Michael Traylor, Terrance Peterkin, DeAndre King, Kenneth Mistak-Conner, Darren Dyson, Dewayne Kelley, Geoffrey Brown, James Thorpe, Detrich Anderson, Francis Babaran, and Andrew Frie; and

WHEREAS, the citizens of Chesterfield County continue to support high school football games.

NOW, THEREFORE BE IT RESOLVED, that the Chesterfield County Board of Supervisors, this 23rd day of February 2005, publicly recognizes the Meadowbrook High School Varsity Football Team for its outstanding representation of Chesterfield County.

AND, BE IT FURTHER RESOLVED, that the Board of Supervisors, on behalf of the citizens of Chesterfield County, hereby commends the Meadowbrook Monarchs for their

splendid sportsmanship and expresses their best wishes for continued success.

Ayes: Barber, King, Humphrey, Miller and Warren.

Nays: None.

Mr. Miller presented executed resolutions to Coach Bowles and members of the Meadowbrook Monarchs Varsity Football Team, congratulated them for being the first high school in the county to win the state championship, and offered best wishes for continued success.

Coach Bowles and the team's quarterback both expressed appreciation to the Board for the recognition.

A standing ovation followed.

16. PUBLIC HEARINGS

o **TO CONSIDER THE APPROPRIATION OF UP TO \$30,000,000 IN PAYMENT TO THE ESCROW AGENT FOR ADVANCE REFUNDING OF SERIES 1998A AND SERIES 1999A GENERAL OBLIGATION BONDS AND CLOSING COSTS**

Mr. Allan Carmody, Budget Manager, stated this date and time has been advertised for a public hearing for the Board to consider the appropriation of up to \$30,000,000 in payment to the escrow agent for advance refunding of Series 1998A and Series 1999A General Obligation Bonds and closing costs.

Mr. Barber called for public comment.

No one came forward to speak to the issue.

On motion of Mrs. Humphrey, seconded by Mr. Miller, the Board approved the appropriation of up to \$30,000,000 in payment to the escrow agent for advance refunding of Series 1998A and Series 1999A General Obligation Bonds and closing costs.

Ayes: Barber, King, Humphrey, Miller and Warren.

Nays: None.

14. REQUESTS FOR MANUFACTURED HOME PERMITS AND REZONING PLACED ON THE CONSENT AGENDA TO BE HEARD IN THE FOLLOWING ORDER: - WITHDRAWALS/DEFERRALS - CASES WHERE THE APPLICANT ACCEPTS THE RECOMMENDATION AND THERE IS NO OPPOSITION - CASES WHERE THE APPLICANT DOES NOT ACCEPT THE RECOMMENDATION AND/OR THERE IS PUBLIC OPPOSITION WILL BE HEARD AT SECTION 17

04SN0312

In Matoaca Magisterial District, GRIND-ALL LLC requests Conditional Use and amendment of zoning district map to permit material recycling operations plus amendments to Conditional Use (Cases 88S005 and 89SN0140) relative to time limitations and grantee restrictions. The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for rural conservation area use. This request lies in an Agricultural (A) District on 55.0

acres fronting approximately forty (40) feet on the south line of Hull Street Road, approximately 2,800 feet west of Skinquarter Road. Tax IDs 689-666-Part of 6773 and 690-666-Part of 5881 (Sheets 14 and 22).

Mr. Turner presented a summary of Case 04SN0312 and stated the Planning Commission and staff recommended approval subject to one condition and acceptance of the proffered conditions.

Mr. William Shewmake, representing the applicant, stated the recommendation is acceptable.

Mr. Barber called for public comment.

No one came forward to speak to the request.

On motion of Mrs. Humphrey, seconded by Mr. Miller, the Board approved Case 04SN0312 subject to the following condition:

With approval of this request, Condition 12 of Case 88S005 and the Condition of Case 89SN0140 shall be deleted. (P)

And, further, the Board accepted the following proffered conditions:

1. Uses permitted under Case No. 04SN0312 shall be limited to the following:
 - a. Grinding, mulching and processing of vegetative waste to include grass, leaves, waste and land clearing debris such as stumps and brush.
 - b. Soil processing.
 - c. Composting.
 - d. Material recycling facility, to include the grinding, mulching, recycling, reprocessing, and management of such materials as wood, pallets, sheet rock, waste paper, inert materials such as bricks, concrete and asphalt as well as construction and demolition material. Provided, however, the term construction and demolition materials do not include paints, coatings, solvents, asbestos, liquid compressed gasses and garbage.
 - e. Solid waste transfer station to enable trucks to consolidate the loads from smaller quantity generators to larger trailers.
 - f. Wholesales of ground, mulched, processed and/or recycled materials. (P)
2. Retail sales shall be prohibited. (P)
3. A 100 foot buffer shall be provided around the perimeter of the operation. Within the buffer, existing vegetation and/or topography shall be supplemented as necessary to provide year-round screening. Other than utilities and access which run generally perpendicular through the buffer, and a fence, there shall be no other

facilities located within this buffer. Landscaping, including existing vegetation, within the buffer shall have an initial height, density and be of a species which will provide year-round screening when installed. The limits of buffers shall be defined to preclude dumping and grading within the buffer. Also, there shall be no filling or grading permitted in the buffer except that necessary to accommodate utilities, access and/or landscaping. A detailed plan depicting these requirements shall be submitted to the Planning Department in conjunction with site plan review. (P)

4. The area of permitted activity and buffer area shall be clearly defined by a permanent means. The method of delineation shall be approved by the Planning Department. (P)
5. The operations boundary shall be secured by permanent means (i.e., fencing, etc.) to preclude vehicles from entering the property at any point other than the single entrance road. The exact means of securing the boundary shall be approved by the Planning Department at the time of site plan approval. (P)
6. Direct access from the property to Route 360 shall be limited to one entrance/exit. The exact location of this entrance/exit shall be determined by the Transportation Department. (T)
7. The entrance road shall be hard surfaced for a length of 250 feet from Route 360. Further, the entrance road shall be designed to preclude the view of activity from Hull Street Road and secured to prohibit indiscriminate dumping of materials. The landfill owner/operator shall be responsible for the removal of any materials dumped along either the access road or along Hull Street Road adjacent to the subject property. Further, the owner/operator shall be responsible for removing dirt and debris from Hull Street Road resulting from the operation. A procedure for controlling dust shall be submitted to the Environmental Engineering Department for approval and shall be implemented in conjunction with activity. Measures to correct dust control problems shall be taken within twenty-four (24) hours of notification by the County. (P and EE)
8. Prior to the issuance of a building permit, 100 feet of right-of-way, measured from the centerline of Hull Street Road along the entire property frontage, shall be dedicated to and for the County of Chesterfield, free and unrestricted. (T)
9. Prior to any site plan approval, a ninety (90) foot wide right-of-way for an east/west major arterial shall be dedicated, free and unrestricted, to and for the benefit of Chesterfield county. The exact location of this right-of-way shall be determined by the Transportation Department, but shall generally be located as set forth in Exhibit A. (T)
10. Prior to any filling, grinding, mulching or processing of vegetative waste, soil processing, composting, material recycling, operation of a transfer station, or

sales of ground, mulched, processed and/or recycled materials, additional pavement shall be constructed along Route 360 to provide left and right turn lanes at the site access. (T)

11. Stormwater Runoff. Stormwater runoff from decomposable materials generated by yard and lawn care or land clearing activities, including, but not limited to, leaves, grass trimmings, woody wastes such as shrub and tree prunings, bark, limbs, roots and stumps, shall not be permitted to drain or discharge directly into the storm sewer system and/or directly to surface water. Areas used for the storage and recycling of materials shall be graded to minimize and to collect runoff. Collected runoff shall be conveyed to a wastewater treatment disposal or holding facility. Such disposal or holding facility includes, without limitation, recirculation. A stormwater pollution prevention plan that is applicable to the project site shall be developed by the applicant and submitted to the Office of Water Quality for review and approval in conjunction with site plan review. (EE)
12. Cleared Area. There shall be a minimum seventy-five (75) foot cleared area between the buffer identified in Proffered Condition 3 and the perimeter of the mulch, compost or other piles of recyclable material. (F)
13. Pond. The site plan shall incorporate the following improvements for County review and approval:
 - a. A pond with a minimum size of .5 acres and a minimum average water depth of five (5) feet, excluding any required safety benches, and a dry fire hydrant to access the water in case of fire.
 - b. A driveway sufficient to provide emergency vehicle access to the pond and dry fire hydrant.
 - c. In conjunction with site plan review, a phasing plan for the construction of the improvements noted in proffers 13a and 13b shall be submitted for the Fire Department's review and approval. (F)
14. East/West Arterial Access. Prior to any site plan approval, an access plan for the East/West Arterial shall be submitted to and approved by the Transportation Department. Access to the property from the East/West Arterial shall conform to the approved access plan. (T)

Ayes: Barber, King, Humphrey, Miller and Warren.
Nays: None.

04SN0306

In Dale Magisterial District, MIDLOTHIAN ENTERPRISES, INC. requests rezoning and amendment of zoning district map from Agricultural (A) to Residential (R-88) with Conditional Use Planned Development to permit exceptions to setback requirements. Residential use of up to 0.50 unit per acre is permitted in a Residential (R-88) District. The

Comprehensive Plan suggests the property is appropriate for residential use of 1-5 acre lots, suited to R-88 zoning. This request lies on 61.4 acres lying approximately 960 feet southeast of the terminus of Waterfowl Flyway, also lying approximately 860 feet off the north line of Nash Road approximately 475 feet east of Eastfair Drive. Tax ID 762-655-7397 (Sheet 25).

Mr. Turner presented a summary of Case 04SN0306 and stated the Planning Commission and staff recommended approval subject to one condition and acceptance of the proffered conditions.

Mr. Oliver "Skitch" Rudy, representing the applicant, stated the recommendation is acceptable.

Mr. Barber called for public comment.

No one came forward to speak to the request.

On motion of Mr. Miller, seconded by Mr. Warren, the Board approved Case 04SN0306 subject to the following condition:

Setbacks for principal buildings and accessory structures shall comply with the requirements of the Residential (R-40) District provided that such lots are accessed through the Woodland Pond Subdivision. (P)

And, further, the Board accepted the following proffered conditions:

The Owners-Applicants in this zoning case, pursuant to Section 15.2-2298 of the Code of Virginia (1950 as amended) and the Zoning Ordinance of Chesterfield County, for themselves and their successors or assigns, proffer that the development of the properties known as Chesterfield County Tax IDs 762-655-7397-00000 (the "Property") under consideration will be developed according to the following conditions if, and only if, the rezoning requests for R-88 with R-40 Setbacks as set forth in the above heading and the application filed herein is granted. In the event the request is denied or approved with conditions not agreed to by the Owners-Applicants, these proffers and conditions shall be immediately null and void and of no further force or effect.

1. Timbering. Except for the timbering approved by the Virginia State Department of Forestry for the purpose of removing dead or diseased trees, there shall be no timbering on the property until a land disturbance permit has been obtained from the Environmental Engineering Department and the approved devices have been installed. (EE)
2. The applicant, subdivider, or assignee(s) shall pay the following to the County of Chesterfield prior to the issuance of building permit for infrastructure improvements within the service district for the property:
 - a. \$11,500 per dwelling unit, if paid prior to July 1, 2005; or

- b. The amount approved by the Board of Supervisors not to exceed \$11,500 per dwelling unit adjusted upward by any increase in the Marshall and Swift Building Cost Index between July 1, 2004, and July 1 of the fiscal year in which the payment is made if paid after June 30, 2005.
- c. In the event the cash payment is not used for the purpose for which proffered within 15 years of receipt, the cash shall be returned in full to the payor. (B&M)

Ayes: Barber, King, Humphrey, Miller and Warren.
Nays: None.

05SN0142

In Midlothian Magisterial District, JIMMIE A. NORWOOD AND CHARLES G. LEWIS request rezoning and amendment of zoning district map from Neighborhood Business (C-2) to Community Business (C-3). The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for community mixed use. This request lies on 0.5 acre and is known as 130 Buford Road. Tax ID 759-706-5587 (Sheet 7).

Mr. Turner presented a summary of Case 05SN0142 and stated the Planning Commission and staff recommended approval and acceptance of the proffered conditions.

Mr. Jimmie Norwood stated the recommendation is acceptable.

Mr. Barber called for public comment.

No one came forward to speak to the request.

On motion of Mr. Barber, seconded by Mr. King, the Board approved Case 05SN0142 and accepted the following proffered conditions:

1. Direct access from the property to North Providence Road shall be limited to one (1) entrance/exit. The exact location of this entrance/exit shall be determined by the Transportation Department. (T)
2. Prior to any site plan approval, thirty-five (35) feet of right of way on the east side of North Providence Road, measured from the centerline of that part of North Providence Road immediately adjacent to the property, shall be dedicated, free and unrestricted, to and for the benefit of Chesterfield County. (T)
3. Prior to the issuance of a certificate of occupancy, an additional lane of pavement shall be constructed along North Providence Road for the entire property frontage based on Transportation Department standards. The developer shall dedicate, free and unrestricted, to and for the benefit of Chesterfield County, any additional right of way (or easements) necessary for this improvement. (T)

Ayes: Barber, King, Humphrey, Miller and Warren.
Nays: None.

05SN0169

In Bermuda Magisterial District, SAMUEL W. GALSTAN requests Conditional Use Planned Development and amendment of zoning district map to permit exceptions to Ordinance requirements in a Neighborhood Business (C-2) District. The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for mixed use corridor uses. This request lies on 0.4 acre and is known as 12290 Iron Bridge Road. Tax ID 780-652-5963 (Sheet 26).

Mr. Turner presented a summary of Case 05SN0169 and stated the Planning Commission and staff recommended approval subject to one condition.

Dr. Samuel Galstan stated the recommendation is acceptable.

Mr. Barber called for public comment.

No one came forward to speak to the request.

On motion of Mr. King, seconded by Mrs. Humphrey, the Board approved Case 05SN0169 subject to the following condition:

With the approval of this request, a fifteen (15) foot exception to the forty (40) foot rear yard setback shall be granted only for those uses permitted by right or with restrictions in the Neighborhood Office (O-1) District. (P)

Ayes: Barber, King, Humphrey, Miller and Warren.

Nays: None.

05SR0225

In Midlothian Magisterial District, CLIFTON AND GLORIA ARMSTEAD request renewal of Manufactured Home Permit 96SR0274 to park a manufactured home in a Residential (R-7) District. The density of this proposal is approximately 3.33 units per acre. The Comprehensive Plan suggests the property is appropriate for residential use of 1.01 to 2.5 units per acre. This property is known as 13941 Westfield Road. Tax ID 726-709-7049 (Sheet 5).

Mr. Turner presented a summary of Case 05SR0225 and stated staff recommends approval for seven years subject to conditions.

Ms. Gloria Armstead stated the recommendation is acceptable.

Mr. Barber called for public comment.

No one came forward to speak to the request.

On motion of Mr. Barber, seconded by Mr. Miller, the Board approved Case 05SR0225 subject to the following conditions:

1. The applicants shall be the owners and occupants of the manufactured home.

2. Manufactured home permit shall be granted for a period not to exceed seven (7) years from date of approval.
3. No lot or parcel may be rented or leased for use as a manufactured home site nor shall any manufactured home be used for rental property.
4. No additional permanent-type living space may be added onto a manufactured home. All manufactured homes shall be skirted but shall not be placed on a permanent foundation.

Ayes: Barber, King, Humphrey, Miller and Warren.

Nays: None.

05SN0139

In Bermuda Magisterial District, THOMAS MOODY AND GEORGE COOK request rezoning and amendment of zoning district map from Agricultural (A) and Neighborhood Business (C-2) to Community Business (C-3). The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for residential use of 1-2.5 units per acre. This request lies on 2.0 acres fronting approximately 280 feet on the west line of Branders Bridge Road across from West Hundred Road. Tax IDs 782-651-2546 and 3034 (Sheet 26).

Ms. Rogers presented a summary of Case 05SN0139 and stated staff recommended denial because the proposed zoning and land use do not conform with the Central Area Plan which suggests the property is appropriate for residential use of one to 2.5 units per acre. She further stated the Planning Commission recommended approval and acceptance of the proffered conditions, indicating that the business is already located on the property and is being operated under a Conditional Use Permit. She further stated the Commission also noted the existing business has not adversely affected adjacent properties.

Mr. Barber called for public comment.

No one came forward to speak to the request.

Mr. King stated the proposal represents another opportunity for the Board to control residential growth and keep a good business in the county.

On motion of Mr. King, seconded by Mr. Miller, the Board approved Case 05SN0139 and accepted the following proffered conditions:

1. Uses permitted shall be limited to uses permitted in the Neighborhood Office (O-1) District and the following additional use:

Furniture sales with associated warehouse (P)

2. Prior to any site plan approval or within sixty (60) days from a written request by the Transportation Department, whichever occurs first, forty-five (45) feet of right-of-way, exclusive of the existing structure,

measured from a revised centerline of Branders Bridge Road shall be dedicated, free and unrestricted, to and for the benefit of Chesterfield County. The exact location of this right-of-way shall be approved by the Transportation Department. (T)

3. Direct access from the property to Branders Bridge Road shall be limited to one (1) entrance/exit. The exact location of this entrance/exit shall be determined by the Transportation Department. (T)
4. Additional pavement shall be constructed along Branders Bridge Road at the site access to provide left and right turn lanes, if warranted, based on Transportation Department standards. The developer shall dedicate, free and unrestricted, to and for the benefit of Chesterfield County any additional right-of-way (or easement) required for these road improvements. (T)
5. Except that loading docks and drive-in loading doors shall be permitted, development of the property shall meet Neighborhood Office (O-1) District standards. (P)
6. The developer shall install Perimeter Landscaping C within the required setback along the southern property boundary adjacent to Tax ID 782-650-2788. A minimum of fifty (50) percent of the required small deciduous trees shall be evergreen trees. (P)
7. The public wastewater system shall be used. (U)

Ayes: Barber, King, Humphrey, Miller and Warren.

Nays: None.

05SR0151

In Matoaca Magisterial District, LUDSON W. HUDGINS requests renewal of Conditional Use (Case 94SN0212) and amendment of zoning district map to permit a self-storage warehouse facility in an Agricultural (A) District. The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for single family residential use of 2.0 units per acre or less. This request lies on 5.0 acres and is known as 8801 Baldwin Creek Road. Tax ID 707-662-Part of 7295 (Sheet 23).

Ms. Rogers presented a summary of Case 05SR0151 and stated staff recommended denial, indicating that while the use has been previously approved for a limited time in the past, the area has experienced substantial residential growth and continued operation of the warehouse facility would not be appropriate and would be inconsistent with the uses suggested by the Upper Swift Creek Plan. She further stated the Planning Commission recommended approval and acceptance of the proffered conditions, indicating that the use would be appropriate until pressures resulted in redevelopment of the area for uses suggested by the Plan.

Mr. Ludson Hudgins stated the storage facility has been operating for 20 years without any complaints from the

neighborhood. He requested the Board's approval of the Planning Commission's recommendation.

In response to Mrs. Humphrey's question, Mr. Hudgins stated there is no time limit on the use with the proposed Conditional Use renewal.

Mr. Barber called for public comment.

No one came forward to speak to the request.

On motion of Mrs. Humphrey, seconded by Mr. King, the Board approved Case 05SR0151 and accepted the following proffered conditions:

1. The following conditions notwithstanding, the plan submitted with the application shall be considered the Master Plan. (P)
2. This Conditional Use shall be limited to the operation of a warehouse (self-storage) facility, exclusively. (P)
3. All activity associated with this use shall be confined to the interior of the existing structures. Outside storage of vehicles or other items shall be prohibited. (P)
4. Other than normal maintenance or cosmetic improvements, no additions or exterior alterations shall be permitted to accommodate this use. (P)
5. Hours of operation shall be limited to between 9:00 a.m. and 9:00 p.m., Monday through Saturday. (P)
6. There shall be no tractor trailer deliveries permitted. (P)

Ayes: Barber, King, Humphrey, Miller and Warren.

Nays: None.

05SN0163

In Dale Magisterial District, GEORGE MICHAEL ROWLAND requests Conditional Use and amendment of zoning district map to permit a residential stock farm (keeping of fowl) in a Residential (R-12) District. The density of such amendment is controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for residential use of 1.00 to 2.5 units per acre. This request lies on 0.3 acre and is known as 4430 Boones Bluff Way. Tax ID 757-684-7598 (Sheet 11).

Ms. Rogers presented a summary of Case 05SN0163 and stated the applicant is permitted to keep 12 fowl as a non-conforming use, but today's ordinance does not allow the keeping of fowl in a Residential area without a Conditional Use Permit. She further stated staff recommended denial because the proposed land use does not comply with the Central Area Plan and is incompatible with existing residential development. She stated the Planning Commission recommended approval and acceptance of the proffered

conditions because the use has been supported by area residents.

Mr. George Michael Rowland stated he acquired chickens and guineas at the recommendation of county staff because of the multitude of ticks, insects and snakes in the vicinity of his property. He presented the Board with petitions signed by his neighbors in support of the request. He stated he believes he deserves the permit and requested the Board's approval.

Mr. Barber called for public comment.

Mr. Kevin Erickson stated he supports the request. He expressed concerns regarding the seriousness of snakebites. He noted Mr. Rowland's guineas have killed numerous snakes in his community and requested that the Board approve his request.

There being no one else to speak to the request, the public hearing was closed.

Mr. Miller made a motion, seconded by Mr. Warren, for the Board to approve Case 05SN0163 and accept the proffered conditions.

After brief discussion, Mr. Barber called for a vote on the motion of Mr. Miller, seconded by Mr. Warren, for the Board to approve Case 05SN0163 and accept the following proffered conditions:

1. All areas associated with the keeping of fowl (coops, yards, etc.) shall be cleaned and made free of waste on a regular basis. In addition, the property owner shall employ a means of eliminating any odor problems and propagation of insects. (P)
2. Any stock farm use shall be limited to the keeping of a total of twenty (20) chickens and/or guineas. (P)
3. This Conditional Use shall be granted to and for George Michael Rowland exclusively, and shall not be transferable nor run with the land. (P)

Ayes: Barber, King, Humphrey, Miller and Warren.

Nays: None.

05SN0167

In Bermuda Magisterial District, BRECKENRIDGE ASSOCIATES LLC requests amendment to zoning Case 86S156 and amendment of zoning district map relative to buffer and setback requirements. The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for community commercial/mixed use corridor uses. This request lies in Community and General Business (C-3 and C-5) Districts on 30.9 acres and is known as 12700 Jefferson Davis Highway. Tax ID 798-653-0495 (Sheet 26).

Ms. Jane Peterson presented a summary of Case 05SN0167 and stated staff recommends approval if, after public input,

there is no opposition. She noted the proffered condition was negotiated with area property owners and meets the intent of the original condition. She stated the Planning Commission recommended approval and acceptance of the proffered condition and noted the Gay Farms Civic Association supports the request.

In response to Mr. King's question, Ms. Peterson stated the existing wall will remain in place and the requested activity will be contained on the side of the shopping center.

Mr. Jim Theobald, representing the applicant, stated the request represents an excellent opportunity to further upgrade the Breckenridge Shopping Center. He requested the Board's support of the proposal.

Mr. Barber called for public comment.

No one came forward to speak to the request.

On motion of Mr. King, seconded by Mr. Warren, the Board approved Case 05SN0167 and accepted the following proffered condition:

The property owner and applicant in this rezoning case, pursuant to Section 15.2-2298 of the Code of Virginia (1950 as amended) and the Zoning Ordinance of Chesterfield County, for itself and its successors or assigns, proffer that the property under consideration will be developed according to the following proffers if, and only if, the rezoning request submitted herewith is granted with only those conditions agreed to by the owner and applicant. In the event this request is denied or approved with conditions not agreed to by the owner and applicant, the proffers shall immediately be null and void and of no further force or effect.

Proffered Condition 11 of Case No. 86S156 is hereby amended and restated as follows:

11. On the western property line, adjacent to Tax ID 798-653-0325, there shall be a fifty (50) foot landscaped buffer, except as shown on the plan by Vanasse Hangen Brustlin, Inc. dated February 9, 2005. Within the fifty (50) foot buffer, healthy vegetation having a caliper of six (6) inches or greater shall be maintained, staggered evergreens (fifteen (15) feet on center, four (4) to five (5) foot minimum height at time of planting) shall be installed and minimum of a six (6) foot tall masonry wall shall be installed. The exact treatment of the buffers shall be approved by the Planning Department. There will be a 125 foot minimum building setback, except as shown on the aforementioned plan. (P)

Ayes: Barber, King, Humphrey, Miller and Warren.

Nays: None.

05SN0127 and 05SN0128

In Matoaca Magisterial District, FOX CREEK DEVELOPMENT, INC. requests rezoning and amendment of zoning district map from Agricultural (A) to Residential (R-12). Residential use of up to 3.63 units per acre is permitted in a Residential (R-12)

District. The Comprehensive Plan suggests the property is appropriate for single family residential use of 2.0 units per acre or less. This request lies on 6.6 acres lying approximately 3,150 feet off the south line of Woolridge Road, measured from a point approximately 750 feet west of Fox Club Parkway. Tax ID 714-674-1733 (Sheet 15).

In Matoaca Magisterial District, GLEN ABBEY PARTNERS LLC request rezoning and amendment of zoning district map from Agricultural (A) to Residential (R-12) with Conditional Use to permit recreational facilities on up to four (4) acres. Residential use of up to 3.63 units per acre is permitted in a Residential (R-12) District. The Comprehensive Plan suggests the property is appropriate for single-family residential use of 2.0 units per acre or less. This request lies on 75.5 acres fronting approximately 510 feet on the northeast line of Otterdale Road approximately 1,620 feet south of Woolridge Road, also fronting approximately 830 feet on the south line of Woolridge Road approximately 2,300 feet east of Otterdale Road. Tax IDs 709-672-8088; 709-673-9924; 710-672-1082; 710-673-1868; and 711-675-0131 (Sheet 15).

Mr. Barber stated staff will now present both Cases 05SN0127 and 05SN0128, followed by the applicant addressing both cases and then public input on Case 05SN0128 as well as 05SN0127, if necessary. He further stated the Board will vote separately on the two requests following the public hearing.

Ms. Robert Clay presented a summary of Case 05SN0127 and stated staff recommended approval and acceptance of the proffered conditions, indicating that the proposed zoning and land use conform to the Upper Swift Creek Plan and are representative of existing and anticipated area development. He further stated the proffered conditions address the impact of the proposed development on necessary capital facilities. He stated the Planning Commission, on a vote of three ayes, one abstention and one member absent, recommended denial indicating that area roads cannot accommodate the increased traffic generated by the proposal without adversely affecting the health, safety and welfare of the community and that action on the request would be premature based on the pending Upper Swift Creek Plan amendment.

Mr. Clay then presented a summary of Case 05SN0128 and stated staff recommended approval and acceptance of the proffered conditions, indicating that the proposed zoning and land use conform to the Upper Swift Creek Plan and are representative of existing and anticipated area development. He further stated the proffered conditions address the impact of the proposed development on necessary capital facilities. He stated the Planning Commission, on a vote of three ayes, one abstention and one member absent, recommended denial, indicating that the area roads cannot accommodate the increased traffic generated by the proposal without adversely affecting the health, safety and welfare of the community and that action on the request would be premature based on the pending Upper Swift Creek Plan amendment. He noted a Regional BMP Plan has been adopted for the Upper Swift Creek watershed, and noted the plan does not propose relocation of a regional pond through which these properties will drain. He stated the BMP Plan suggests construction of a BMP upstream from the subject property. He further stated the applicant has offered a proffered condition, which requires

construction and maintenance of ponds, which will achieve a maximum phosphorous runoff of .22 pounds per acre per year until the county obtains the initial permit for the implementation of the Regional BMP Plan. He stated the applicant has submitted plans, which propose construction of the downstream regional BMP within the overall development, but the zoning case does not guarantee such relocation and construction and only guarantees that temporary measures will be in place until the initial permits are obtained for the Regional Plan implementation.

In response to Mr. Warren's questions, Mr. Clay reiterated that the applicant's proposal does not require relocation of the regional pond within the boundaries of the overall development. He further stated the Upper Swift Creek Plan was originally adopted in 1991 and amended in March 2000 to reduce the recommended densities of residential development that drain into Swift Creek Reservoir.

Mr. Turner stated staff anticipates the public hearing process regarding the Upper Swift Creek Plan amendment to begin in September 2005 before the Planning Commission.

Mr. John Cogbill, representing the applicant, stated Case 05SN0127 includes a maximum of seven new lots on 6.6 acres. He further stated the proposal incorporates the same proffered conditions as the Fox Creek development. He stated one additional cul-de-sac is proposed and there is no access from the subject property to Otterdale and Woolridge Roads other than through Fox Creek. He further stated other relevant conditions include designing and maintaining silt basins to remove .22 pounds of phosphorous per acre annually from stormwater runoff until regional ponds are approved; a 50-foot buffer and 25-foot tree save area; and maximum cash proffers of \$11,500 per lot. He stated the request conforms to the Upper Swift Creek Plan and the proffered conditions adequately mitigate the impact on capital facilities.

Mr. Cogbill then addressed Case 05SN0128. He stated the request will provide a maximum of 151 new lots on 75.5 acres. He further stated, in an attempt to accommodate the Foxcroft residents, no additional accesses are proposed to Foxcroft, Woolridge or Otterdale Roads. He stated the applicant tried to minimize the conflict points on Otterdale and Woolridge Roads and has not requested a waiver for connectivity requirements in either of the cases. He further stated the two developments will generate a maximum of 1,580 trips per day, noting that the applicant will meet all connectivity requirements of staff during the subdivision process. He stated, in addition to paying the cash proffer, the applicant will be making numerous additional improvements to Otterdale and Woolridge Roads at an estimated cost of \$168,000 over and above the cash proffers. He further stated the applicant has addressed community concerns relative to growth, schools, roads and water quality. He noted the county's growth rate has and will continue to moderate. He referenced traffic conditions on Courthouse Road in 1991 and stated the problem was taken care of within ten years.

Mr. Miller expressed concerns that there appears to be very little state funding for road infrastructure.

Mr. Cogbill stated the county is acquiring road funding through grants as well as from developers.

In response to Mr. Miller's question, Mr. Cogbill stated the developer is proposing to put in place a regional BMP facility pursuant to a plan the county has had for four years that will provide better protection of Swift Creek Reservoir.

Mr. Warren expressed concerns that the regional BMP alluded to by Mr. Cogbill has not been offered as a proffered condition.

Mr. Cogbill stated the applicant has made a promise and spent money. He further stated a Department of Environmental Quality (DEQ) permit has been issued and a Corps of Engineers (Corps) permit is about to be issued. He noted there is an informal agreement with staff relative to funding of the BMP, which includes a substantial contribution by the developer.

Mr. Warren thanked Mr. Cogbill for his efforts in securing funding for Route 288. He expressed concerns that the county has over \$1 billion in transportation needs.

Mr. Cogbill stated the county will benefit by increased state development and revenue. He addressed the misconception that the Woodlake community is growing faster than any other part of the county, indicating that the Woodlake area was ranked second among the communities in annual growth percentage from 1990-2004 and is currently ranked sixth in projected annual growth percentage among all of the county's 25 communities. He stated the county is maturing, and growth is beginning to decline in this area and remains slower than it did in the 70's and 80's. He addressed school concerns, stating the percentage of school-aged county residents is declining and enrollment increases are not constant across all grade and school levels. He further stated this imbalance will be addressed either through redistricting and/or additional schools. He stated the Public Facilities Plan has recommended at least two new elementary schools and a new middle school in or near the Upper Swift Creek Plan area. He then addressed transportation concerns stating that the Woodlake community had a lower rate of traffic accidents than the county as a whole and, in fact, is tied with Salisbury for the lowest rate in the county. He stated none of the top ten crash areas are listed in this study area, and transportation statistics indicate most of the accidents on Woolridge and Otterdale Roads were related to poor driver behavior. He stated sections of Woolridge and Otterdale Roads nearest to the property are currently operating at level of service "C," which indicate fully functioning roads. He provided details of road improvements proposed with the project. He then addressed water quality concerns, indicating that the developer has agreed to construct the first regional pond to provide greater protection of the reservoir and has also agreed to contribute \$310,000 towards construction of the regional BMP. He noted the reservoir's water quality is currently in a steady state and phosphorous levels have actually declined slightly. He stated the developer will provide over \$1.8 million in cash proffers and \$750,000 in additional road improvements and requested the Board's favorable consideration of both requests.

Mr. Barber called for public comment on Case 05SN0128 and noted the Board would also accept comment on Case 05SN0127 at this time.

Ms. Lee Dillar, expressed concerns relative to the number of springs, riparian streams and perennial streams located on the property that is the subject of Case 05SN0127, and stated she does not believe the Board should allow development on this acreage.

Mr. Ted Lushch expressed concerns that the additional traffic generated by approval of these developments will guarantee that Woolridge and Otterdale Roads are designated as unsafe, by the county's definitions. He urged the Board to support the Planning Commission's recommendation and deny the requests.

Dr. Tom Pakurar expressed concerns that, during construction, the two developments will generate over 3,000 pounds of phosphorous, and the proposed BMP will only remove 100 to 200 pounds. He stated engineering standards are not correct for the soils in this area. He further stated he sent a letter to the Board on November 30, 2004, making them aware that the reservoir's phosphorous levels were very high based on data obtained from the county's web site on November 26, 2004 for the year 2003. He stated, on December 2, 2004, the high phosphorous numbers were deleted from the county's database. He further stated he requested a detailed explanation from staff as to why the phosphorous data is statistically different, but has not yet received a response. He requested that the Board defer the requests for 12 months and make Matoaca a better place for its residents.

Mr. Warren inquired how the data could change in two days.

Mr. Ramsey stated Ms. Joan Salvati, Water Quality Administrator, can provide an explanation.

Mr. Barber requested that Ms. Salvati address the issue following public comment.

Ms. Kathy Kirk, a Foxfire resident, requested a deferral of both cases consistent with the Board action to defer cases in the Upper Swift Creek Plan area for 12 months. She stated it is her understanding the 12-month deferral period is calculated for each individual zoning application from the date the case is first scheduled to be heard by the Board. She requested that the Board implement its policy and either defer or deny the requests.

Ms. Kitty Snow stated she was not provided traffic statistics under the Freedom of Information Act because she has filed a lawsuit against the county. She expressed concerns relative to traffic accidents on Genito and Otterdale Roads. She requested that the Board vote to deny this and any other rezoning cases under the present conditions in the Upper Swift Creek area.

Ms. Brenda Stewart stated neither the Planning Commission nor the Director of Planning has approved the plat for the land that is the subject of Case 05SN0127. She further stated the official original plat for the property affirms that the sale or transfer is not for purposes of creating a parcel for

residential use. She expressed concerns relative to exchange of parcels, including the subject parcel, that ultimately resulted in the option for the Cosby Road High School site and, therefore, involved the expenditure of county funds. She requested that the Board deny the development and provide an explanation to the citizens as to the reason for the property exchanges.

Mr. Barber requested that Mr. Micas provide the Board with an explanation regarding Ms. Stewart's concerns at the end of public comment, if possible.

Mr. Greg Blake, President of the Foxcroft Homeowners Association Board of Directors, expressed concerns that there have been no improvements in road, school and reservoir conditions in the Upper Swift Creek area since the Board approved the original Fox Creek development in November 2003. He stated the Upper Swift Creek Plan amendment will not be completed until September 2005 at the earliest and requested that the Board defer or deny the requests until the Plan amendment is complete.

Dr. Betty Hunter-Clapp, a resident of the Clover Hill District, referenced a 1974 study surrounding the impact of development in the Upper Swift Creek Watershed, which indicated if uncontrolled growth is permitted within the watershed or if land use management is inadequate, degradation of Swift Creek Reservoir would be significantly accelerated. She went on to say the study provided three alternatives for use of the watershed - 1) as a protected open space serving as a buffer to expanding suburban development; 2) as an area of highly managed developmental growth where land use is adjusted to the protection requirements of the reservoir and of the watershed; or 3) as an area of developmental sprawl with patterns and characteristics of land use similar to those currently experienced elsewhere in the county. She expressed concerns relative to the concentration of soils in the Upper Swift Creek Watershed and stated extra measures are not yet in place to protect the reservoir. She requested that the Board either deny or defer the proposed developments.

Mr. Peter Martin, a resident of Mount Hermon Road, stated the transportation impact of the development proposed in Case 05SN0128 will make a bad situation intolerable. He requested that the Board deny the request until roads are available to accommodate additional traffic in the area. He also stated school overcrowding is already severe, and additional development will create inadequate school facilities.

Mr. Bill Hastings, a resident of the Matoaca District, expressed concerns relative to the imbalance of growth versus citizen safety and high quality of life. He stated the Board has an opportunity to address this imbalance by deferring the request for 12 months.

Ms. Irene Maschalko, a resident of the Matoaca District, expressed concerns relative to endangered drinking water, serious traffic congestion and quality of life in the Upper Swift Creek area and requested that the Board deny the request until the Upper Swift Creek Plan has been updated.

Ms. Marleen Durfee, Director of the Task Force for Responsible Growth, expressed concerns relative to facility needs, severe school overcrowding, environmental issues and extreme transportation conditions in the Upper Swift Creek area. She stated Woolridge Road has seen a vehicle increase of nearly 8,000 from 2002 to 2004, and Mr. John McCracken has described Otterdale Road as being the most dangerous in the county. She further stated the Planning Commission's recommendation to deny the request on the basis of health, safety and welfare issues should not be dismissed by the Board. She stated the proposed developments will add an additional 5,189 trips on Woolridge and Otterdale Roads, and Mr. McCracken has indicated funding for improvements on these roads will not be available for a long time. She stated the Board should focus on commercial rather than residential development in the Upper Swift Creek area and requested that the Board deny the request or exercise its deferral policy until the Plan is revised.

Ms. Mandy Wilson expressed concerns relative to the traffic that will be generated from the proposed development and stated the \$1.8 million for transportation improvements will not touch what is needed for adequate infrastructure in the area. She stated Swift Creek Middle School is at 145 percent with 12 trailers and there is no planned relief for school capacity at the middle school level in this vicinity. She requested that the Board deny the proposed development until adequate infrastructure is in place to protect the health, safety and welfare of residents in the area.

There being no one else to speak to Case 05SN0128, the public hearing was closed.

Mr. Barber requested a five-minute recess.

Reconvening:

Mr. Barber requested that Mr. Micas address questions raised during the public hearing.

Mr. Micas stated Ms. Stewart believes that there was a relationship between public and private real estate transactions for the Cosby Road High School site. He further stated she has been told that this is not the case. He stated the Board is being asked to make a land use decision, and Ms. Stewart's concerns regarding the real estate transactions are unrelated to the requested zoning action. He further stated that Dr. Pakurar's reference to a March 2004 letter from him was a reference to a memo that he had sent to the Board of Supervisors explaining that once an application for zoning has been filed, the Board has 12 months to consider the request before it has to take action and the 12-month period is calculated from the date the request first comes before the Board.

In response to Mr. Barber's question, Mr. Micas stated there has been no effort to withhold information from Ms. Stewart.

Mr. Barber called forward Ms. Joan Salvati, Water Quality Administrator, to address a concern of Mr. Warren.

Mr. Warren inquired whether the applicant's proposal for a regional BMP would cover the entire project.

Ms. Salvati stated both of the proposed developments will drain into the area of the proposed BMP.

Mr. Turner stated the applicant has not proffered a condition with this zoning case to guarantee construction of a regional BMP, only made a promise to do so.

Ms. Salvati addressed the issue raised by Dr. Pakurar relative to deletion of phosphorous data. She stated the Swift Creek Treatment Plant posted several data points on the Internet and, upon review by treatment plant staff, some of the points were found to be statistical outliers and not accurate; therefore, they were removed from the web site.

In response to Mr. Miller's question, Ms. Salvati stated the developer would be required to meet the .22 phosphorous level criteria as an interim measure until a regional BMP is constructed.

In response to Mr. Warren's question, Ms. Salvati stated, whenever an application is submitted to the DEQ, it is typical for the DEQ to request additional information. She further stated staff is in the process of providing the specific information requested.

Mr. Ramsey stated, when the Regional BMP Plan was designed, staff had hoped the Corps would approve the plan in its entirety. He further stated he and Ms. Salvati recently met with the Corps of Engineers, and the Corps has indicated, although the Regional BMP Plan is not an inadequate plan, they will not approve the plan in its entirety, but will approve individual BMP facilities as construction plans are completed.

Ms. Salvati stated both the Corps and the DEQ have officially stated they approve of the overall regional plan concept, but federal law does not permit the Corps to provide a permit on a master plan basis unless each of the facilities is designed in detail. She further stated they have agreed to approve the BMP facilities in phases.

Mr. Warren expressed concerns relative to the muddy conditions in the reservoir while the county is awaiting approval of the BMP facilities.

In response to Mr. Barber's question, Ms. Salvati stated she has a high level of confidence that the developer will construct the proposed regional BMP facility because he has applied for and gone through the process, with both DEQ and the Corps of Engineers.

In response to a question from Mr. Miller, Mr. Cogbill stated the two proposed developments will complete a subdivision approved by the Board more than a year ago. He further stated the proffered conditions adequately address all infrastructure concerns based upon facts contained in county documents. He stated the streams Ms. Dillar spoke of will be dealt with through the subdivision process. He further stated the Swift Creek Reservoir has a lot of life remaining. He stated the developer is trying to address the issues

raised by Dr. Hunter-Clapp by constructing a BMP facility on a voluntary basis at substantial expense to the developer. He noted 94.2 percent of county residents believe they have a good or excellent quality of life. He stated the proposed developments will constitute no more than 158 new homes on 82 acres, and he has provided facts to address every concern expressed tonight.

Mr. Barber then called for public comment on Case 05SN0127 at this time.

No one came forward to speak to Case 05SN0127.

Mr. Barber closed the public hearing.

In response to Mrs. Humphrey's question, Mr. Cogbill stated the DEQ has verbally approved the proposed regional BMP and there is now a waiting period before issuance of the final permit. He further stated the Corps of Engineers has reviewed and verbally approved the proposed BMP. He stated the developer is now awaiting Mr. McElfish's approval of plans, indicating he anticipates the process will be complete within 60 days.

In response to Mrs. Humphrey's questions, Ms. Salvati stated there are no contaminants in the county's drinking water, as suggested by Ms. Maschalko. She further stated a proffered condition would provide a higher level of comfort that the BMP facility would be constructed, but noted the .22 phosphorous standard would be required until such time as a BMP is constructed.

Mrs. Humphrey stated she has attempted with staff to evaluate what the Board can do within reason relative to an additional deferral of cases in the Upper Swift Creek area, specifically looking at the western perimeter of the Powhite Parkway extension. She further stated she believes zoning cases to the eastern and southern boundaries of the proposed Powhite extension should be looked at differently because water and sewer lines are available, a new high school is proposed and road improvements are being realized through zoning cases. She stated she had intended to ask several citizens to assist her in drafting a second deferral motion to deal with what will probably change in the Upper Swift Creek Plan and give the Board and the business community the opportunity to move forward on what probably will not change. She further stated there is a very defined line for the Powhite extension, and noted these two requests fall within the infill area. She stated the Board has asked the Planning Commission to evaluate a number of strategies, including differential cash proffers, and they recommended that no changes be made to the county's cash proffer methodology for commercial and industrial uses. She requested the other Board members thoughts relative to a proffered condition to ensure construction of the proposed BMP.

Mr. Barber stated the BMP facility has not been made a proffered condition because it is not located on the subject property.

Mr. Micas stated it is not uncommon for the Board to accept proffered conditions that require off-site improvements.

Mr. Miller expressed concerns relative to the legalities of off-site proffers, indicating there could be enforcement issues.

Mr. Micas stated the proffered condition would be performance based and, if the developer did not adhere to the proffered condition, amendment to the zoning would be necessary or an alternative for construction of the BMP found. He further stated there could be a phasing component in a proffer addressing construction of the BMP.

Mr. King expressed concerns relative to the Board's credibility being attacked by speakers during the public hearing. He stated, while he supports property rights, he cares greatly about the citizens of Chesterfield County and is bothered by suggestions that he does not.

Mr. Barber addressed Ms. Wilson's comments relative to siting of the proposed middle school. He stated, if the school were to be sited outside of the growth area to the west, the overcrowding problem would be exasperated by new homes being located on lots that have already been zoned near the facility. He further stated he has no reservations about locating facilities further east to serve our current students.

Mr. Miller stated each person who purchases a home in the county contributes to school and traffic overcrowding. He further stated developers are an integral part of our county, providing jobs and opportunities. He expressed concerns that staff recommended approval, but the Planning Commission recommended denial, indicating he always finds it difficult to overrule the Planning Commission. He stated the requests were filed subsequent to the deferral policy, so there is no inequity if the Board chooses to defer the cases, and it would not seem unfitting to await the outcome of the Upper Swift Creek Plan amendment prior to acting on the requests.

In response to Mr. Warren's question, Mr. Cogbill stated the applicant has proffered everything that has been legally requested. He further stated the developer went the extra mile to start the process for constructing the first regional BMP facility and inquired why the county would require that the developer submit a proffered condition relative to the BMP, necessitating a wait for zoning approval. He stated the developer is willing to stand behind its offer to construct the regional BMP facility with a letter, but requested that the Board move forward on their generous offer to serve the county at this time. He further stated the applicant has met all of the county's requirements and he believes the project should move forward.

Mr. Warren stated he would prefer that a proffered condition be prepared regarding the BMP facility.

Discussion ensued relative to preparation of a deferral motion for rezoning of properties in Upper Swift Creek Plan area, west of the Powhite Parkway extension.

Mrs. Humphrey stated she is inclined to reevaluate the far western Upper Swift Creek area, but is not prepared with a deferral motion at this time.

Mr. Warren stated, when the Board approved the deferral of residential cases in the Upper Swift Creek Plan for one year, he was under the assumption that the deferral was to allow for revision of the Upper Swift Creek Plan so the Board would be in a position to act on requests in a logical manner. He further stated he would like to honor that commitment by not approving this request and, at the very least, deferring it until the Plan has been revised.

Mr. Miller stated he would be prepared to support Case 05SN0127 at this time, indicating he sees no reason to delay it. He further stated he is not sure he would be supportive of requiring a proffered condition for the BMP facility because it bothers him to require off-site improvements. He stated citizens remarking that the Board is insensitive to their needs and wishes is offensive to him, indicating this is not true and the Board tries very hard to make the right decisions.

Mr. Barber stated he is reluctant to approve another deferral action, and he believes it would be wiser on the Board's part to judge every case on its merits and engage the citizenry on a regular basis case by case. He further stated he agrees with Mr. Miller that approving the smaller of the two cases makes great sense.

Mrs. Humphrey made a motion, seconded by Mr. King, for the Board to approve Case 05SN0127 and accept the following proffered conditions:

The Owners and the Developer (the "Developer") in this zoning case, pursuant to Section 15.2-2298 of the Code of Virginia (1950 as amended) and the Zoning Ordinance of Chesterfield County, for themselves and their successors or assigns, proffer that the development of the Property known as Chesterfield County Tax Identification Number 714-674-1733 (the "Property") under consideration will be developed according to the following conditions if, and only if, the rezoning request for R-12 is granted. In the event the request is denied or approved with conditions not agreed to by the Developer, the proffers and conditions shall immediately be null and void and of no further force or effect. If the zoning is granted, these proffers and conditions will supersede all proffers and conditions now existing on the Property.

1. Density. A maximum of seven (7) lots shall be permitted. (P)
2. Utilities. The public water and wastewater systems shall be used, except for sales facilities and/or construction offices. (U)
3. Timbering. With the exception of timbering which has been approved by the Virginia State Department of Forestry for the purpose of removing dead or diseased trees, there shall be no timbering until a land disturbance permit has been obtained from the Environmental Engineering Department and the approved devices have been installed. (EE)
4. Foundations. The exposed surfaces of the foundations of each dwelling shall be covered with brick or stone

veneer or exterior insulation and finishing systems (EIFS) materials. (P)

5. House Size. All dwellings shall have a minimum gross floor area of 2,500 square feet. (P)
6. Cash Proffers. For each dwelling unit developed, the applicant, subdivider, or assignee(s) shall pay \$11,500.00 per unit to the County of Chesterfield, prior to the time of issuance of a building permit, for infrastructure improvements within the service district for the Property if paid prior to July 1, 2005. Thereafter, such payment shall be the amount approved by the Board of Supervisors not to exceed \$11,500.00 per unit as adjusted upward by any increase in the Marshall and Swift Building Cost Index between July 1, 2004 and July 1 of the fiscal year in which the payment is made if paid after June 30, 2005. If any of the cash proffers are not expended for the purposes designated by the Capital Improvement Program within fifteen (15) years from the date of payment, they shall be returned in full to the payor. (B&M)
7. Lot Size. All lots shall have a minimum area of 15,000 square feet. (P)
8. Notice. The developer shall notify the last known representative of the Foxcroft Homeowners Association on file with the Planning Department of the submission of tentative subdivision plans. Such notice shall occur at least twenty-one (21) days prior to the approval of such plans. The developer shall provide the Planning Department with a copy of the notice. (P)
9. Curb and Gutter. Public subdivision roads shall be constructed with concrete curb and gutter. (P)
10. Covenants. At a minimum, the following restrictive covenants shall be recorded for the development. Specific terms and definitions shall be set forth in the Covenants and may not be the same as definitions set forth in the Chesterfield County Zoning Ordinance. All terms and definitions set forth in the Covenants shall control this Proffered Condition.
 - A. Architectural Board. The Architectural Board shall have exclusive jurisdiction over all original construction, modifications, additions or alterations made on or to all existing improvements, and the open space, if any, appurtenant thereto on all property. It shall prepare and, on behalf of the Board of Directors, shall promulgate design and development guidelines and application and review procedures, all as part of the design and environmental standards. The standards shall incorporate all restrictions and guidelines relating to development and construction contained in this Declaration as well as restrictions and guidelines with respect to location of structures upon property, size of structures, driveway and parking requirements, foundations and length of structures, and landscaping requirements. Copies shall be available

from the Architectural Board for review. The guidelines and procedures shall be those of the Association, and the Architectural Board shall have sole and full authority to prepare and to amend the standards available to Owners, builders, and developers who seek to engage in development of or construction upon property within their operations strictly in accordance therewith. The Architectural Board shall initially consist of three (3) members, all appointed by the Declarant. At such time as fifty percent (50%) of all property within subject property has been developed, improved, and conveyed to purchasers in the normal course of development and sale, the Board of Directors of the Association shall have the right to appoint a maximum of two (2) additional members. At no time shall the Architectural Board have fewer than three members nor more than five (5) members. At such time as one hundred percent (100%) of all property has been developed, improved, and conveyed to purchasers in the normal course of development and sale, the Board of Directors shall appoint all members of the Architectural Board. The declarant may, at his option, delegate to the Board of Directors its right to appoint one or more members of the Architectural Board. At all times, at least one (1) member of the Architectural Board shall be a member of the Association, and at least one (1) member shall be an architect licensed to practice in the State of Virginia, who shall also be the Chairperson.

- B. Mailboxes. Every improved lot shall be required to have a mailbox with supporting post and street light of design and installation as specified in the standards. Each lot owner shall be responsible for the maintenance and operation of the fixture, support, and mailbox.
- C. Parking. Each property owner shall provide space for the parking of automobiles off public streets prior to the occupancy of any building or structure constructed on said property in accordance with the standards.
- D. Garages. All dwellings will have side or rear loaded garages.
- E. Signs. No signs shall be erected or maintained on any property by anyone including, but not limited to, the owner, a realtor, a contractor, or a subcontractor, except as provided for in the standards or except as may be required by legal proceedings. Residential property identification and like signs not exceeding a combined total of more than one (1) square foot may be erected without the written permission of the Declarant or the Association.
- F. Condition of Ground. It shall be the responsibility of each property owner and tenant to prevent the development of any unclean, unsightly, or unkempt conditions of buildings or grounds on

such property which shall tend to substantially decrease the beauty of the neighborhood as a whole or the specific area.

G. Minimum Square Footage. No plan required under these Covenants will be approved unless the proposed house or structure has a minimum square footage of enclosed dwelling space as specified in the standards. Such minimum requirement for each lot will be specified in each sales contract and stipulated in each deed. The term "enclosed dwelling area" as used in these minimum size requirements does not include garages, terraces, decks, open porches, and the like areas.

H. Residential Use.

(i) All lots shall be used for residential purposes exclusively. The use of a portion of a dwelling on a lot as an office by the owner or tenants thereof shall be considered a residential use if such use does not create customer or client traffic to and from the lot. No structure, except as herein after provided, shall be erected, altered, placed, or permitted to remain on any lot other than one (1) detached single family dwelling and one (1) accessory building which may include a detached private garage, provided the use of such accessory building does not overcrowd the site and provided further that such building is not used for any activity normally conducted as business. Such accessory building may not be constructed prior to the construction of the main building.

(ii) A guest suite or like facility without a kitchen may be included as part of the main dwelling or accessory building, but such suite may not be rented or leased except as part of the entire premises including the main dwelling and provided, however, that such suite would not result in overcrowding of the site.

(iii) The provisions of this paragraph shall not prohibit the Developer from using a house as a model as provided in this Declaration.

I. Exterior Structure Completion. The exterior of all houses and other structures must be completed within one (1) year after the construction of same shall have commenced, except where such completion is impossible or would result in great hardship to the owner or builder due to the strikes, fires, national emergency, or natural calamities. Houses and other dwelling structures may not be temporarily or permanently occupied until the exteriors thereof have been completed. During the continuance of construction the owner of the lot shall require the contractor to maintain the lot in a reasonably clean and uncluttered condition.

- J. Screened Areas. Each lot owner shall provide a screened area to serve as a service yard and an area in which garbage receptacles, fuel tanks or similar storage receptacles, electric and gas meters, air conditioning equipment, clotheslines, and other unsightly objects much be placed or stored in order to conceal them from view from the road and adjacent properties. Plans for such screened area delineating the size, design, texture, appearance, and location must be approved by the Architectural Board prior to construction. Garbage receptacles and fuel tanks may be located outside of such screened area only if located underground.
- K. Vehicle Storage. No mobile home, trailer, tent, barn, or other similar out-building or structure shall be placed on any lot at any time, either temporarily or permanently. Boats, boat trailers, campers, recreational vehicles, or utility trailers may be maintained on a lot, but only when in an enclosed or screened area approved by the Architectural Board such that they are not generally visible from adjacent properties.
- L. Temporary Structures. No structure of a temporary character shall be placed upon any lot at any time provided, however, that this prohibition shall not apply to shelter or temporary structures used by the contractor during the construction of the main dwelling house, it being clearly understood that these latter temporary shelters may not at any time be used as residences or permitted to remain on the lot after completion of construction,. The design and color of structures temporarily placed on the lot by a contractor shall be subject to reasonable aesthetic control by the Architectural Board.
- M. Antennas. Except as otherwise provided by applicable law, no television antenna, radio receiver or sender, satellite dish, or other similar device shall be attached to or installed on the exterior portion of any building or structure or any lot except that should cable television services be unavailable and good television reception not be otherwise available, a lot owner may make written application to the Association for permission to install such a device and such permission shall not be unreasonably withheld.
- N. Further Subdivision. No lot shall be subdivided or its boundary lines changed except with the written consent of the Declarant. However, the Declarant hereby expressly reserves to itself, its successors, or assigns the right to replat any lot or lots owned by it and shown on the plat of any subdivision in order to create modified building lot or replatted lot suitable and fit as a building site including, but no limited to, the recreational facilities, and other amenities to conform to the new boundaries of said replatted lots, provided that no lot originally shown on a recorded plat is reduced to a size smaller than the smallest lot

shown on the first plat of the subdivision section. Nothing in this paragraph shall prohibit the combining of two (2) or more contiguous lots into one (1) larger lot, only the exterior boundary lines of the resulting larger lot shall be considered in the interpretation of these covenants.

- O. Animals. Only common household pet animals shall be permitted. All pet animals must be secured by a leash or lead, or be under the control of a responsible person and obedient to that person's command at any time they are permitted outside a residence or other enclosed area upon a lot approved by the Architectural Board for the maintenance and confinement of pet animals. No livestock including cattle, horses, sheep, goats, pigs, or poultry shall be permitted upon any lot. After giving a lot owner written notice of complaint and reasonable opportunity to remedy the situation, the Board of Directors may order the removal of any pet which has been a nuisance or a danger.
 - P. Motor Bikes All Terrain Vehicles. No motor bikes, motorcycles, or all terrain vehicles shall be driven upon the common area, lots, or roads (unless properly licensed on roads) with the exception of licensed vehicles and mopeds which shall be operated solely upon the public streets for direct ingress and egress purposes only.
 - Q. External Lighting. No external lighting shall be installed or utilized on any property which is of such character, intensity, or location as to interfere with the use, enjoyment, and privacy of any lot or owner in the near vicinity. No neon or flashing lights shall be permitted. All external lighting shall be approved by the Architectural Board as appropriate in size, location, color, and intensity.
 - R. Swimming Pools. No swimming pool, whether in ground or above ground, whether permanent or temporary, shall be installed upon any lot without the prior written consent of the Architectural Board. The Architectural Board shall require that all swimming pools be adequately screened.
 - S. Rules and Regulations. The Board of Directors is granted and shall have the power to promulgate rules and regulations, from time to time, governing the use of and activity upon the Common Area and the Recreational Facilities (if the Recreational Facilities are owned or leased by the Association). All rules and regulations promulgated by the Board of Directors shall be published and distributed to each member of the Association at least thirty (30) days prior to their effective date. (P)
11. Garages. All dwellings will have side or rear loaded garages. (P)

12. Best Management Practice (BMP) Facility. The developer shall leave in place temporary sediment control devices and/or construct new BMP's or combinations of BMP's which would achieve a maximum phosphorous runoff limit of 0.22 pounds per acre per year until Chesterfield County obtains its initial permit for the implementation of the Upper Swift Creek Watershed Plan. (EE)
13. Open Space. A minimum of fifty (50) feet of common open space shall be maintained adjacent to Foxcroft Subdivision. Except for utilities and pedestrian/bicycle paths which run generally perpendicular through the buffer, there shall be no uses permitted in the buffer. Except where necessary to provide the uses stated herein, any healthy trees that are six (6) inches or greater in caliper shall be retained unless removal is approved through the subdivision process. (P)
14. Tree Preservation. A twenty-five (25) foot tree preservation strip within the proposed lots shall be maintained along the western boundary of the common open space described in Proffered Condition 13. Utility easements and rights-of-way shall be permitted to cross this strip in a perpendicular fashion. Any healthy trees that are six (6) inches in caliper or greater shall be retained within this tree preservation strip except where removal is necessary to accommodate the improvements permitted by the preceding sentence. This condition shall not preclude the removal of vegetation from the tree preservation strip that is unhealthy, dying or diseased. (P)

Ayes: Barber, King, Humphrey and Miller.

Nays: Warren.

Mrs. Humphrey stated she appreciates the quality of development the applicant has provided in the county. She expressed concerns that the citizens have not participated in the process to get the Upper Swift Creek Plan completed. She further stated the policy adopted in February 2004 was to provide one year for the Planning Commission and staff to complete the Plan revision.

Mrs. Humphrey then made a motion, for the Board to defer Case 05SN0128 for six months.

Mr. Warren seconded the motion.

Mrs. Humphrey requested that the Planning Commission respond to her in writing regarding the anticipated completion of the Upper Swift Creek Plan amendment. She stated this request will be heard in six months, whether or not the amendment is complete.

Mr. Barber called for a vote on the motion of Mrs. Humphrey, seconded by Mr. Warren, for the Board to defer Case 05SN0128 until August 24, 2005.

Ayes: Barber, King, Humphrey, Miller and Warren.

Nays: None.

Mr. Miller made a motion, seconded by Mr. King, for the Board to suspend its rules at this time to consider an item after 11:00 p.m.

Ayes: Barber, King, Humphrey, Miller and Warren.

Nays: None.

04SN0232

In Matoaca Magisterial District, DOUGLAS SOWERS requests rezoning and amendment of zoning district map from Agricultural (A) to Residential (R-12) with Conditional Use Planned Development to permit exceptions to Ordinance requirements. Residential use of up to 3.63 units per acre is permitted in a Residential (R-12) District. The Comprehensive Plan suggests the property is appropriate for single family residential use of 2.0 units per acre or less. This request lies on 242.3 acres fronting approximately 4,000 feet on the west line of Otterdale Road, approximately 1,500 feet south of Old Hundred Road. Tax ID 714-694-7687 (Sheet 9).

Ms. Jane Peterson presented a summary of Case 04SN0232 and stated staff recommended approval of the rezoning request, indicating that the proposed zoning and land use conform to the Upper Swift Creek Plan and the proffered conditions address the impacts of the proposed development on necessary capital facilities. She further stated the Planning Commission, on a vote of three to two, recommended denial and noted that area roads could not accommodate the increased traffic generated by the request without adversely affecting the health, safety and welfare of the community. She stated the Commission suggested that the request should not be acted upon until the review of the Upper Swift Creek Plan is completed. She further stated staff and the Planning Commission, on a three to two vote, recommended denial of the waiver to street connectivity requirement and that Proffered Condition 10 not be accepted, indicating that granting such relief necessitates design details that can best be provided through the subdivision review process.

Discussion ensued relative to the Planning Commission's recommendation for denial of the original request for the proposed development in August 2004.

In response to Mr. Barber's questions, Ms. Peterson stated the connectivity policy addresses planning and fire safety issues. She further stated several criteria must be met to grant a waiver to connectivity requirements, and staff feels it would be more appropriate to consider the appropriateness of a waiver through the subdivision process when design information is available.

Mr. Barber stated, although it makes sense short term to grant connectivity requirements to address concerns of residents, this can create a great deal of trouble long term for public safety, school transportation and other issues.

Mr. Jim Theobald, representing the applicant, stated this request was remanded to the Planning Commission because the applicant was seeking credit for dedication of significant right of way for the Powhite Parkway extension, indicating

that the applicant has now provided this right of way without seeking credit toward the cash proffer. He further stated the applicant has done everything requested by staff, and citizens from the adjacent North Hundred Subdivision support the proposal. He stated the developer is in compliance with the county's BMP policy and has agreed to phase the development of the project, dedicate over 60 acres of land for the Powhite Parkway extension, pay a full cash proffer and not ask for any credit in return for the substantial land dedication and road improvements. He further stated many of the residents of North Hundred Subdivision have experienced serious water issues, indicating that the developer has agreed to bring public water to North Hundred Subdivision as well as to the proposed development. He stated the proposed development will include three or four direct access points to Otterdale Road, and there will be no need for connectivity into North Hundred. He requested the Board's approval of the rezoning request and the waiver to street connectivity requirements.

In response to Mr. Barber's question, Mr. Theobald stated the applicant has made a commitment to the neighbors not to support a request for connectivity should the Transportation Department determine that additional traffic warrants such.

Mr. Barber called for public comment.

Mr. Wayne Bass, Matoaca District Planning Commissioner, stated seven meetings have already been held involving the general public in the amendment of the Upper Swift Creek Plan, and expressed concerns that the Planning Commission has not been able to complete the amendment of the Plan because the Transportation and Environmental Engineering Departments have not presented their components for the Plan.

Mr. Warren stated the information provided by Mr. Bass is critical information because the Board had been led to believe the Planning Commission was holding up the process. He requested that Mr. Barber, as Chairman, direct staff to do everything possible so that the Plan amendment can be completed in six months.

Dr. Tom Pakurar, a resident of the Clover Hill District, provided an aerial view of the reservoir depicting muddy conditions in the vicinity of the subject property. He stated the BMP located along Genito Road servicing this area is supposed to meet the .22 phosphorous level standard, and questioned whether the required efficiency is being received from this pond. He requested that the Board defer the project for 12 months to allow for approval of the Upper Swift Creek Plan amendment. He stated the BMP plan for the Ruffin Mill Road area is an excellent plan because it deals up front with the soil conditions of that area, indicating it could be a strong model for the Upper Swift Creek Plan.

Mr. William Burroughs, a resident of North Hundred Subdivision, stated he believes Mr. Sowers has offered the county above and beyond what they have asked for, giving up 25 percent of his land for the Powhite Parkway extension. He stated he does not see how the Board could deny this rezoning request.

Mr. Steve Harris, a resident of North Hundred Subdivision, stated he supports the proposed development. He further stated the developer has addressed the residents' transportation concerns and has also agreed to assist with water extension to the North Hundred community. He stated the Hallsley development will result in an additional 800 vehicles per day through North Hundred Subdivision and the residents do not want additional traffic from this development to gain access through their community. He further stated the Fire and Emergency Services Department has indicated the applicant has satisfied their requirements and additional access is not necessary. He requested that the Board approve the project and waive the street connectivity requirements.

Mr. Tom Lewis, a resident of North Hundred Subdivision, thanked Mr. Sowers for addressing the residents' concerns and bringing water into the neighborhood. He further stated the residents of North Hundred Subdivision are very much in support of the proposed development.

Mr. Ted Lushch expressed concerns relative to unsafe road conditions on Otterdale Road. He stated the current traffic count on Otterdale is 858 vehicles per day, and this development will increase that number to 5,298 vehicles per day, taking the level of service of the road from "B" to render it unsafe. He requested that the Board consider deferring the request.

Mr. Ben Heath, a resident of North Hundred Subdivision, emphasized that 42 homeowners support the proposed development and do not support connectivity into their neighborhood.

Mr. Greg Blake, a resident of the Foxcroft Subdivision, requested that Mrs. Humphrey move for deferral of the request until such time as the Upper Swift Creek Plan amendment has been adopted.

Ms. Kathy Kirk, a resident of Foxfire, stated she does not believe the Board's deferral policy was subject to the Planning Commission providing the Board with a revised Plan by February 2005. She expressed concerns that it does not appear the policy was the approved procedure of action to guide the Board on future zoning actions in this area and inquired about the purpose of the policy.

Mr. Larry Kidd, a resident of North Hundred Subdivision, expressed concerns relative to water issues in his neighborhood and stated the developer has agreed to assist the residents by providing a water main and connections to the neighborhood at his expense. He further stated county staff has indicated a connection into North Hundred is not necessary for the proposed development and requested that the Board approve the project and grant relief to the connectivity requirement.

Ms. Marleen Durfee stated, although she sympathizes with the water issues of North Hundred residents, she is more concerned about the transportation impact of the proposed development. She further stated she does not believe the Powhite Parkway extension is the answer to the county's problems of secondary road congestion. She strongly

requested that the Board not approve development until water quality and transportation scenarios are available in the Upper Swift Creek Plan amendment.

No one else came forward to speak to the request.

In response to Mrs. Humphrey's questions, Mr. Banks stated he does not foresee a staff recommendation proposing to relocate the proposed alignment of the Powhite Parkway extension as part of the Upper Swift Creek Plan amendment.

Mrs. Humphrey expressed concerns relative to the water issues in North Hundred, indicating it is imperative that the community receive access to public water. She expressed disappointment that the business community and land use process is being held up because the Upper Swift Creek Plan amendment has not been completed. She stated she does not want to hold up this community from getting public water any longer. She further stated it is the county's responsibility to secure the rights of way for the Powhite Parkway extension, indicating that this extension is very important to the county.

Mr. Barber noted the project will be phased to minimize its impact on schools, and the first house will be not be constructed until 2008. He further stated an additional middle school will be opened in this vicinity by 2008 or 2009, and a second high school will open by 2010.

Mr. Warren inquired whether staff could complete the Upper Swift Creek Plan amendment within six months.

Mr. Turner stated it is clear that the Board is making the Plan amendment a priority, and staff will do everything in its power to bring the amendment to the Planning Commission within six months.

Mr. Barber stated there are other plans being worked on in other parts of the county, and requested that staff not speed up the Upper Swift Creek Plan amendment at the detriment of other scheduled plan reviews.

Mr. Miller stated he would be inclined not to require connectivity because of the additional burden it would place on North Hundred residents.

In response to Mr. Miller's question, Mr. Theobald stated this request has been in the works for well over a year. He further stated the development community has backed off to allow the Board one year to amend the Upper Swift Creek Plan, but he now believes every case should be reviewed on its own merits. He stated the developer has agreed to provide 25 percent of his land for the Powhite Parkway extension, and he believes the project represents an opportunity to do a lot of good for a lot of people.

Mrs. Humphrey stated she believes the water issue in Old Hundred has been a significant health, safety and welfare issue for a long time. She further stated the ability to acquire this amount of property for the Powhite extension is available now, and there is no guarantee that it will be here in six months. She stated she believes approval of the request represents a unique opportunity for the county.

Mrs. Humphrey then made a motion, seconded by Mr. Barber, for the Board to approve Case 04SN0232 and waive the street connectivity requirements.

Discussion ensued relative to the number of accesses being proposed for the request project as well as the number of accesses for North Hundred Subdivision.

Mr. Barber stated he typically does not support waiving connectivity because it can be detrimental long term, but he believes concrete reasoning has been presented for the requested waiver because of the number of accesses proposed for this development as well as those for North Hundred.

Mr. Warren made a substitute motion for the Board to defer Case 04SN0232 for six months.

The substitute motion of Mr. Warren failed for lack of a second.

Mr. Micas clarified that separate votes must be taken for approval of the zoning case and waiving of the connectivity requirements.

Mr. Barber called for a vote on the motion of Mrs. Humphrey, seconded by Mr. Barber, for the Board to approve Case 04SN0232 and approve the following condition:

The Textual Statement last revised July 26, 2004, shall be considered the Master Plan. (P)

And, further, the Board accepted the following proffered conditions:

The Owners-Applicants in this zoning case, pursuant to Section 15.2-2298 of the Code of Virginia (1950 as amended) and the Zoning Ordinance of Chesterfield County, for themselves and their successors or assigns, proffer that the development of the property known as Chesterfield County Tax ID 714-694-7687-00000 (the "Property") under consideration will be developed according to the following conditions, if and only if, the rezoning request for R-12 is granted. In the event the request is denied or approved with conditions not agreed to by the Owners-Applicants, these proffers and conditions shall be immediately null and void and of no further force or effect.

1. Timbering. Except for the timbering approved by the Virginia State Department of Forestry for the purpose of removing dead or diseased trees, there shall be no timbering on the Property until a land disturbance permit has been obtained from the Environmental Engineering Department and the approved devices have been installed. (EE)
2. Utilities. Except for one temporary model home within a modular unit, the public water and wastewater systems shall be used. (U)
3. Cash Proffer. The applicant, sub divider, or assignee(s) shall pay the following to the County of

Chesterfield prior to the issuance of each building permit for infrastructure improvements within the service district for the Property:

- a. \$9,000.00 per dwelling unit, if paid prior to July 1, 2004; or
 - b. The amount approved by the Board of Supervisors not to exceed \$9,000.00 per dwelling unit adjusted upward by any increase in the Marshall and Swift Building Cost Index between July 1, 2003, and July 1 of the fiscal year in which the payment is made if paid after June 30, 2004.
 - c. Provided, however, that if any building permits issued on the Property are for senior housing, the dwelling units of which meet the occupancy requirements for "age 55 or over" housing as set forth in Section 3607 of the Fair Housing Act, 42 USC Section 3601 et seq., as amended by the Fair Housing Amendments Act of 1988, and of 24 CFR Section 100.304 in effect as of the date of the Rezoning, and which are subject to the occupancy requirements that no person under 19 shall reside in each unit, the amount approved by the Board of Supervisors, but not to exceed \$4,815 per dwelling unit as adjusted upward by any increase in the Marshall and Swift Building Cost Index between July 1, 2003 and July 1 of the fiscal year in which the payment is made if paid after June 30, 2004. At the time of payment, the \$4,815 will be allocated pro-rata among the facility costs as follows: \$598 for parks and recreation, \$324 for library facilities, \$3,547 for roads, and \$346 for fire stations. Payments in excess of \$4,815 shall be prorated as set forth above. (B&M)
4. Density. The total number of units shall not exceed 2.0 units per acre. (P)
 5. Lot Size. Any lots contiguous to the North Hundred Subdivision shall contain a minimum of 25,000 square feet. A maximum of twenty-five (25) lots shall be located contiguous to the "North Hundred Subdivision". (P)
 6. Buffer. A fifty (50) foot buffer, exclusive of easements and required building setbacks, shall be provided along the south line of the North Hundred Subdivision. This buffer shall comply with the requirements of the Zoning Ordinance for Sections 19-520 through 19-522. (P)
 7. Age-Restricted Units. Age restricted dwelling units shall be grouped on a particular portion of the Property and shall not be scattered among other residential dwelling units. At the time of recordation of a subdivision plat, lots for age-restricted units shall be so noted on the plat. (P)

8. BMPs.

- (a) For areas that drain through a regional BMP, temporary sediment basins shall remain in place and/or new BMPs constructed to achieve the .22 phosphorus standard until the downstream regional BMP into which the development will drain has been constructed.
- (b) For areas that do not drain through a regional BMP, temporary sediment basins shall remain in place and/or new BMPs constructed to achieve the .22 phosphorus standard until Chesterfield County obtains its initial permit for implementation of the Upper Swift Creek Watershed Plan. (EE)

9. Phasing of Development. No single family shall be recorded prior to January 1, 2006, and no more than one-hundred single family lots shall be recorded prior to January 1, 2007.

10. Road Connections. There shall be no public road connection to Sly Fox Road. (P)

11. Transportation.

- (a) In conjunction with recordation of the initial subdivision plat, forty-five (45) feet of right-of-way along the west side of Otterdale Road, measured from a centerline based on VDOT Urban Minor Arterial Standards (50 mph) with modifications approved by the Transportation Department, of that part of Otterdale Road immediately adjacent to the Property, shall be dedicated, free and unrestricted, to and for the benefit of Chesterfield County.
- (b) In conjunction with recordation of the initial subdivision plat, or within sixty (60) days from a written request by Chesterfield County, whichever occurs first, a 200 foot wide limited access right of way for Powhite Parkway Extended from Otterdale Road through the property shall be dedicated to and for the benefit of Chesterfield County. The exact location of this right-of-way shall be approved by the Transportation Department.
- (c) Direct access from the Property to Otterdale Road shall be limited to four (4) public roads. The exact location of these accesses shall be approved by the Transportation Department.
- (d) To provide an adequate roadway system, the developer shall be responsible for the following improvements:
 - i. Construction of additional pavement along Otterdale Road at each approved access to provide left and right turn lanes, if warranted, based on Transportation Department standards.

- ii. Widening/improving the west side of Otterdale Road to an eleven (11) foot wide travel lane, measured from the centerline of the road, with an additional one (1) foot wide paved shoulder plus a seven (7) foot wide unpaved shoulder, and overlaying the full width of the road with one and half (1.5) inches of compacted bituminous asphalt concrete with modifications approved by the Transportation Department, for the entire Property frontage.
- iii. Dedication to and for the benefit of Chesterfield County, free and unrestricted, of any additional right of way (or easements) required for the improvements identified above.

(e) Prior to any construction plan approval, a phasing plan for the required road improvements, as identified in Proffered Condition 11.(d), shall be submitted to and approved by the Transportation Department.

12. Passive Recreation. The developer shall dedicate to and for the benefit of Chesterfield County, free and unrestricted, a thirty (30) foot wide ingress/egress easement along the length of Swift Creek within a conservation area from the eastern to western parcel boundaries, exclusive of the Powhite Parkway Extended right-of-way as identified in Proffered Condition 11.(b). This easement is intended for use by the Parks and Recreation Department to provide a passive recreation facility, and shall be recorded after recordation of the Powhite Parkway Extended right of way. (P&R)

Ayes: Barber, King and Humphrey.
Nays: Warren.
Abstain: Miller.

Mrs. Humphrey then made a motion for the Board to waive the street connectivity requirements for Case 04SN0232.

In response to Mr. Miller's question, Mr. Micas stated his abstention on the vote concerning approval of Case 04SN0232 does not preclude him from seconding a motion to waive street connectivity requirements.

Mr. Miller seconded the motion made by Mrs. Humphrey.

Mr. Barber called for a vote on the motion of Mrs. Humphrey, seconded by Mr. Miller, for the Board to waive the street connectivity requirements for Case 04SN0232.

Ayes: Barber, King, Humphrey, Miller and Warren.
Nays: None.

17. REMAINING MANUFACTURED HOME PERMITS AND ZONING REQUESTS

There were no remaining manufactured home permits or zoning requests at this time.

18. ADJOURNMENT

On motion of Mrs. Humphrey, seconded by Mr. Miller, the Board adjourned at 12:55 a.m. until March 7, 2005 at 5:00 p.m. in Room 502 of the Administration Building for dinner with members of the Social Services Board, followed by budget presentations in the Public Meeting Room.

Ayes: Barber, King, Humphrey, Miller and Warren.

Nays: None.

Lane B. Ramsey
County Administrator

Edward B. Barber
Chairman